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INVESTOR ROAD MAP

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This report has been prepared by a joint FIAS and USAID consulting team at the request of the Ministry of Industry and Trade. It covers the whole process of establishing and operating businesses in Jordan, with the objective of identifying and assessing the major administrative obstacles to investors. It also provides recommendations to remove the key obstacles, based on Jordan's needs and conditions and international best practice. The FIAS/USAID project team would like to thank its counterpart ministry, especially its Investment Promotion Corporation, for the effective cooperation and support throughout the project. The team would also like to thank other relevant government parties and many individuals of both public and private sectors, who met with the team and assisted with the conduct of the study. The FIAS/USAID project team will be fully responsible for the views and recommendations provided in this report.

TABLE OF CONTENTS

	Page
EXECUTIVE SUMMARY.....	X
CHAPTER I INTRODUCTION	1
CHAPTER II GENERAL APPROVALS	3
A. COMPANY REGISTRATION	3
2. <i>Analysis</i>	5
3. <i>Recommendations</i>	7
B. INVESTMENT INCENTIVES.....	7
2. <i>Analysis</i>	10
3. <i>Recommendations</i>	11
C. WORK PERMITS FOR EXPATRIATES	12
2. <i>Analysis</i>	13
3. <i>Recommendations</i>	14
CHAPTER III SPECIAL LICENSING BY LINE MINISTRIES	16
A. HOTEL LICENSING PROCEDURES.....	16
1. <i>Preliminary Approval</i>	18
2. <i>Approval for Construction</i>	19
3. <i>Final Licensing and Grading</i>	19
4. <i>Analysis</i>	19
5. <i>Recommendations</i>	20
B. INDUSTRIAL LICENSING.....	21
1. <i>Preliminary Approval</i>	21
2. <i>Final Licensing</i>	24
3. <i>The Initiative on Industrial Licensing Committee</i>	25
4. <i>Analysis</i>	25
5. <i>Recommendations</i>	26
CHAPTER IV ACCESS TO LAND	29
A. PRIVATELY OWNED LAND.....	29
1. <i>Land Title Registry</i>	29
B. STATE OWNED LAND.....	30
1. <i>Jordan Valley Authority</i>	30
2. <i>Aqaba Regional Authority</i>	32

Investor Road Map

C. INDUSTRIAL ESTATES.....	33
1. Analysis.....	34
2. Recommendations.....	37
 CHAPTER V SITE DEVELOPMENT.....	39
A. DEVELOPMENT AND CONSTRUCTION	39
1. Zoning and Rezoning.....	39
2. Building Permit.....	41
3. Environment Clearance	42
4. Building Safety Clearance.....	42
5. Occupancy Permit.....	44
6. Professional License.....	44
7. Analysis.....	45
8. Recommendations.....	46
 B. UTILITY CONNECTIONS.....	47
1. Electricity.....	48
2. Water and Wastewater.....	51
3. Telephone	52
4. Postal Services.....	52
5. Analysis.....	52
6. Recommendations.....	54
 C. Industrial Estates	
1. Analysis.....	56
2. Recommendations.....	57
 CHAPTER VI OPERATIONAL REQUIREMENTS	58
A. INCOME TAX REGISTRATION AND PAYMENT	58
2. Recommendations.....	59
 B. IMPORT AND EXPORT	60
1. Procedures for Customs Clearance	62
2. Import Licensing.....	65
3. Temporary Entry Regime	66
4. Analysis.....	68
5. Recommendations.....	69
 C. SITE INSPECTIONS.....	70
1. Analysis.....	71
2. Recommendations.....	71
 CHAPTER IV : CONCLUSION.....	73

EXECUTIVE SUMMARY

- i. Administrative procedures for investment largely determine how easy or difficult it is to establish and operate business in a particular country. For that reason, they are among the most important factors investors consider when making location decisions. Procedural reforms, thus, receive increased attention in all countries that are actively promoting investment.
- ii. Since 1992, the Government of Jordan has been consistently improving the business environment with a view to encourage more private investment, both local and foreign. Efforts have been particularly made to introduce reforms in such policy areas as trade, taxation, foreign exchange and sectoral entries. These reforms have brought forth a new policy framework that is largely enticing to investors and, in several aspects, it is competitive even by international standards.
- iii. The impact of these policy reforms, however, has not been fully shown in private investment and GDP growth. Other political and economic factors notwithstanding, uneven implementation of the new system has prevented many investors from benefiting fully from the policy changes introduced. Indeed, until government executing agencies at various levels act conscientiously and coherently to adjust the style and routine of their daily operation, private investors still have to cope with a large number of bureaucratic requirements, many of which were established under the old policies to control rather than to encourage investment.
- iv. At the high level of the Government, there is no lack of awareness of the existing administrative barriers to investors, nor the will to overcome them. The establishment of the Investment Promotion Corporation (IPC) was to provide investors a “one-stop shop” facilitation in dealing with the bureaucratic investment procedures. The effort, despite its good intention, has been limited in success. It seems that, as long as the system remains overly complicated and cumbersome, no “facilitator” can do a real good job that could satisfy investors and the Government – a lesson that has not been that different from many other countries.
- v. This report focuses on the necessary procedural reforms aimed at removing -- not simply overcoming -- the administrative barriers to investors. It reviews critically the current investment process, identifies the areas where efforts are most needed to address the problems, and suggests the ways and means to make the necessary improvements. The final purpose of the report is to help the Jordanian Government to advance the system, to the largest extent possible, towards one that is simple, transparent and automatic.

Investor Road Map

(Add Chart I)

vi. To gain an overall understanding of the investment process in Jordan today, the report walks the reader through the investment process as a typical investor would have to. The findings are summarized in Chart I which shows the key approvals required to establish a business, the principal authorities involved, and the approximate steps and time needed to obtain the approvals. It is clear that, though the procedures required may not all look overwhelmingly bad respectively, together they weave into a long and tremendously bureaucratic path that makes the life difficult for companies. This fact has to be realized by all government authorities involved, so that they would not only dwell on the parts they are respectively responsible for, but consider the entire process an investor would have to struggle through in order to establish and conduct business in the country.

vii. Several general problems with the system deserve particular attention. First, there is a question about the purpose of some of the approvals required. Sectoral licenses by line ministries, the Company Controller's role in commercial registry, the professional license by municipality authorities – all these do not appear to serve a clear purpose of the Government. These approvals may have made better sense in the past, when the Government wanted to control the private entry to most sectors, or restrict the freedom of private participation in general business. Today, as most of the sectors are opening up to all investors and very few restrictions are maintained, the continued requirement of those licenses and control no longer makes sense. Due to their complicated process, they become rather counterproductive to the overall trend of economic liberalization and deregulation.

viii. Second, there is clearly a problem of overlapping for many of the approvals that do serve a legitimate purpose. Some of the approvals simply involve too many authorities, and others require too many steps. For instance, the environmental clearance involves at least 5-6 authorities/agencies, often in a parallel rather than coordinated fashion. Likewise, building safety control requires involvement of 3-5 local and central authorities, and quality and safety control for food products may involve 5-6 ministries and authorities. As a result, investors often have to respond to multiple authorities for the same information requested and the same questions asked. This not only wastes the investors' time and causes them frustration, but also leads to confusion and waste of resources of government executing agencies.

ix. Third, there is an issue of lack of transparency and predictability. As indicated by the wide swing of the estimate time required for many of the specific approvals, the process in many parts is unpredictable. It may take a few weeks to a few months to obtain a work permit; a week to a month for a building permit; a month to a year for a new telephone line, a few weeks or a few months for environment clearance; and several months to several years to lease or purchase land from the State. In most approvals required, authorities in charge cannot provide clear information regarding criteria and

Investor Road Map

procedures; in most cases, there is no self-imposed time limit on the authorities to respond to investors. Consequently, a lot is left to the discretion of the authority and officials in charge, and the time taken largely depends on who you know.

x. The answers to these problems will not be simple. An underlined need is eliminate those approvals that are no longer useful, simplify and streamline those that are still needed, and make the system function with clearly established rules, criteria and standards. This needs to be done with the entire system, as well as each part of it. Many of the procedural problems will not be substantially improved unless relevant policy and legal changes are made. On some issues, such as land, strategic decisions are yet to be made at the highest level of the Government as how to balance the need to encourage investment and safeguard other national interests.

xi. Removing administrative barriers presents a strong challenge to the Government. It requires efforts to discard old functions and create new ones, to restructure and replenish the organization, and to change the mind-set and operational style of the government employees at all levels. Nevertheless, this is a reform that is inevitable, if the major policy reforms already launched by the Government are to be complete. It is also achievable, so long as there is a strong commitment of the leadership and mobilized efforts of all government authorities and staff involved.

xii. In designing the changes, the Government of Jordan can benefit from international experience. Many countries have faced similar problems, and some have sorted out solutions better than others. Indeed, Jordan needs to match the best practice in the world to succeed in becoming a favorable investment site for more investors. In a world where capital flows increasingly freely and competitively across borders, it is not enough to be better than one's own past, but to be at the top of everyone else in the world, to become a true winner.

xiii. Based on these general principles, the following summarizes the key recommendations regarding each of the major investment procedures reviewed in the main report.

xiv. **Company Registry** has been improved a lot in recent years, but the existing process can be further simplified through the following:

- ***Abolish the office of the Controller of Companies and streamline the procedures for company registry under the office of Registrar.*** There is no rational basis for keeping two separate offices within the MOIT for company registration. Only one office, the Registrar, using a simple process and form is needed to collect all basic information from *all* desired company for incorporation. Further, there is no need to

Investor Road Map

require all prospective partners or shareholders to present themselves at the Controller's office and sign the registration documents in his presence. As in most Western countries, a duly appointed agent, acting as a sole incorporator, or an attorney, can provide this service.

- ***Eliminate unnecessary approvals and consolidate as much as possible those that are still required.*** The approval required for company contracts and by-laws, for instance, should be abandoned. Likewise, the capital deposit requirement is not necessary for most companies except perhaps those for public trading. Finally, the minimum capital requirement should be eliminated, or at least substantially reduced, to encourage small investments needed in Jordan.
- ***Introduce Bona fide registrations for trademarks, patents and industrial designs, which were registered elsewhere.*** This would be particularly useful for those that were registered in countries using high standards and criteria. It would save time, reduces costs, and brings more efficiency to the process.

xv. **Obtaining investment incentives** is much easier today than a few years ago. The Investment Promotion Committee in IPC is functioning well in coordinating different key parties in approving incentives for investment projects. However, the system can be further improved by the following efforts:

- ***Further simplify the process by abandoning the case-by-case project screening.*** For income tax reductions, an investor should be automatically entitled to special reductions, as long as he is engaged in the sectors and regions specified in the law and regulation. There is no reason for IPC to evaluate the project at all. For import duty exemptions, instead of determining item by item for each case based on vague criteria, IPC could work with the customs and business communities to develop more specified lists of "capital assets" for different businesses, and use such lists as general guidelines when approving duty exemptions for investors. Case-by-case determination would be needed for unusual cases only. This may help save the time and resources investors and IPC have to spend on the process. It may also help limit the potential of unnecessary revenue leakage.
- ***Relief IPC from directly monitoring import duty exemptions.*** Once the lists of duty exempted imports are established, it should become the responsibility of the customs authority, not the IPC, for execution and monitoring. Customs officers at the point of imports' entry should be informed of the approved lists. While performing a real-time assessment on the exact composition of the goods entering the country, they could immediately check the duty exempted goods against the approved lists. IPC needs to intervene only in case of disagreements. For most investors, especially those whose goods come through the port of Aqaba, this would mean saving days from the import process.
- ***Decentralize IPC Operation.*** IPC currently operates from Amman only, and its working contacts with regional authorities appear weak. Decentralization will allow

Investor Road Map

IPC to get closer to clients (investors), and to function more effectively in facilitating investors' needs. Various mechanisms can be explored by IPC to achieve a more decentralized operation. These include setting up IPC branches or delegate certain power to local authorities.

xvi. **Obtaining work permits for expatriates** is still difficult, partly due to the government's concern about domestic unemployment. But foreign companies in general generate jobs and provide training for locals. Their simple self-interest also urge them to limit expatriate hiring. Government policies and procedures should facilitate their basic needs and allow them greater freedom in making the choices. To this end, the following can be considered:

- ***Introducing mechanisms that would automatically meet the basic needs of most investors.*** For instance, the Government may consider allowing each significant foreign investment a specified number of work permits, scaled either to the size of the investment or to other indicators, such as total employment. As long as the required permits are within the set limit, they should be granted automatically without screening. This could help minimize the bureaucratic paper work, and serve the interest of the country to encourage investment and local employment.
- ***Simplify and streamline the procedures for those still subject to approval.*** For the work permits outside the allowed limits, for instance, the Government may maintain the approval requirement. However, procedures for the approval should become more simple and transparent. The MOL should publish clear guidelines explaining the rules and criteria used for screening, so that investors can become aware of them. Information asked from investors should be simple, and the process should be made more consistent and predictable. It is also useful to set a short time limit for processing the application forms.
- ***Increasing the time period of the work permits.*** The current one-year period is not sufficient for most companies. It could be increased to, say, three years, which would save many investors and the authorities alike the hassle of bureaucratic approvals.
- ***Reconsider the need for "security check" and explore options.*** The majority of investors would not risk their business by bringing in persons with "criminal records." To hold up all expatriates for screening, for fear of a small number of cases of abuse, may not be worthwhile, not to say that such a check is impractical in most cases. Better options could be to screen cases only selectively rather than universally, to rely more on enforcing the general laws and order, and to punish criminal activities once they are found.

xvii. **Hotel licensing** today mixes up the legitimate and bureaucratic purpose, and the process lacks transparency and efficiency. To improve the situation, the following is especially needed:

- ***Separate the approval requirements for quality control and professional standards from those for pure bureaucratic purposes.*** For instance, approvals for zoning and environment safety, project drawing and star-grading are necessary for both public and project benefits. Instead, the “preliminary approval,” feasibility studies approval and other administrative clearance before final license appear to serve no clear purpose other than bureaucratic control.
- ***Strengthen the quality control functions by establishing standards and guidelines and delegate the implementation to public and private professional entities with competent knowledge and expertise.*** For instance, GCPE and JEA that already serve as the professional controllers respectively for environment protection and building design standards, could be given more authorized power without the need for “final” approval by MOTA and Municipalities. The latter, instead, should limit their role to establishing standards and guidelines, to be followed by professional entities in reviewing and approving projects. Star-grading, as in many countries, is also best conducted by business and professional associations, rather than by government administrators.
- ***Have MOTA to focus screening and approval only on a small number of special cases with large impact on public interests.*** Some hotel or tourism projects, due to their location and size, may have substantial impact on the overall regional development or environment, and thus are subject to strong public concerns. Governments may want to reserve the rights to examine the proposals for such projects more carefully to ensure that important public interests are properly safeguarded. Projects subject to government scrutiny, however, should be limited to a small number, with clearly established criteria. Screening agencies that limit themselves to a small number of projects are more likely to do an effective job.

xviii. **Industrial licensing** needs to be re-examined for its purpose and functions. Licensing is justified only when vital interests of the public are involved. For examples, special permits by the government may be necessary when rights are being granted to a public monopoly (such as a utility), when a non-renewable public resource is being tapped (such as a mineral deposit), when public trust is at issue (such as a bank) and when public property is being sold (such as a privatization). Some justified political motivations for screening may include concerns related to national security or sovereignty, including defense-related industries and mass communication media. Apart from the areas mentioned, the Government should not be concerned with reviewing and approving prospective investment projects, and in those areas licensing should be abolished.

xix. To attract private investment, it is clearly desirable to shrink the number of sectors in which licensing is required. The Government of Jordan may consider the following:

- ***Abandon industrial licensing for the majority of investors.*** The Government should make an immediate effort to review all the sector-related licenses, identify the few areas in which continued licensing will be necessary, and eliminate all others from the

Investor Road Map

requirement. One useful mechanisms that has helped other countries reduce licensing is to use a “negative list” approach to limit the screening and approval only to a small number of projects that are strategically important to the country. The criteria used to make such a list are preferably by activities, although size or location are also used in some countries. The result, in all cases, should be that the majority of investment projects are not on the list and are completely released from the licensing requirement.

- ***Supporting the scheme of “one-stop shop” servicing by simplifying the system.*** For those remaining on the “negative list” and thus require approvals, the notion of having a “one stop shop” facilitation is useful, but its attempt would have little chance to succeed unless strong efforts are made at the same time to simplify the procedures themselves. Limiting licensing to only a small number of projects, with the help of a short “negative list,” would be pre-conditional to the success, and indeed the practicality, of such a scheme. Experience in many countries suggests that merely putting all approvals under one roof would not substantially help shorten the process, but cause a lot of inter-ministerial battles. The “one-stop shops” that have worked around the world are those that also focus on creating a new system that minimizes approvals, simplifies procedures, and coordinates all key parties.
- ***Streamline the necessary approvals for special industries.*** Food-processing industry, for instance, needs to be subject to proper regulations that safeguard public health and safety. However, the stops an investor has to make to get the information and approvals need not be so many. The various ministries and authorities should work together to develop comprehensive and coherent rules and standards, make them readily available to investors and professional agencies, and simplify and streamline the procedures through an integrated agency.
- ***Streamline the procedures for environmental protection.*** Similar to approvals for safeguarding public health, regulation for environmental protection is important for both industries and the public. However, the current system, which diffuses the function to too many overlapping authorities/agencies, does not best serve the objectives, but waste the time and resources of investors and public agencies. For instance, if a project located in an industrial zone is cleared for environment purposes by the zone authority, according to properly established criteria and procedures, there is no reason for other ministries and municipality authorities to replicate the approval for the same purpose.

xx. **Access to State Land** is probably the most difficult part of the investment process. Jordan, like all other countries, will have to determine its land policies and management systems according to its overall political and economic needs. Land in the prioritized regions, and indeed in the whole country, can be politically sensitive and needs to be handled accordingly. However the difficulties encountered by investors in accessing land need to be addressed, if those regions and the country as a whole are to be successful developed by private investment as desired. Only by opening up more land for investment can a greater level of investment be realized in the coming years.

Investor Road Map

xxi. Keeping in mind of Jordan's situation, and drawing from international experience, the following steps are recommended:

- ***Reform the lease system to make it more investor-friendly.*** In the immediate run, the Government may focus on improving the leasing system to make it adequate for investors' basic needs. To do so, the Government may use guiding principles based on international best practice. There is a need to pay special attention to the duration and transferability of the lease, and the freedom of investors to use the leased land as long as such uses fall within the relevant legal framework, master plans, and codes for environmental protections.
- ***Improve the land allocation and pricing system by using market-oriented mechanisms.*** The current system to allocate and price the available land has been economically inefficient and administratively difficult, for both interested investors and executing authorities. Market mechanisms, such as public auction, as experimented in Jordan in the past and as done in many other countries, should be seriously considered to benefit both serious investors and the public interests.
- ***Delegate more autonomous power to regional authorities.*** JVA and ARA should be given more autonomy regarding the allocation of land under their jurisdictions. Except for cases with strategic sensitivity or perhaps of very large size, authorizations for land transactions should be provided at the regional level. Cabinet could reserve its power over special cases.
- ***Safeguard vital public interests by strengthened legal and institutional framework.*** Concerns about potential speculation or environment protection should be handled through protective clauses and penalties put in the relevant laws and model contracts. Jordan already has some of these mechanisms in place. For instance, hotel license sets time limit for the construction to start; and environmental authorities are established to guide and monitor companies' operation. Such a mechanisms could be strengthened in implementation. The Government may also consider introducing fiscal instruments, such as high capital gain tax and property tax to discourage land speculation, and more severe financial penalties for those who break the environment codes.
- ***Simplifying the registration procedures at the LSD by eliminating unnecessary requirements.*** The clearances of ministries and Cabinet appear redundant and should be abandoned. Some of the procedures are rooted in different laws enacted at different times. Simplifying the land registration procedures may require an effort to update the laws and unify them into one law which covers all the matters related to land.

xxii. **Site development** becomes crucial once land is obtained. Site development procedures include various approvals related to construction, utility connections, and starting operation. Most of these approvals are required from local governments and utility authorities. Although many of the approvals serve legitimate purposes (e.g.,

compliance with zoning, building safety, environmental protection), the system is unnecessarily complicated and redundant. There is also the problem of lack of information and quality staff. Finally, all utility connections are severely constrained by the short supply. To alleviate the situation, efforts are needed to:

- ***Eliminate the redundancy of approvals and duplication of efforts.*** Efforts are needed to identify what approvals are essential and what are not. Some preliminary approvals and final checking may serve no useful purpose and should be abandoned. Overlapping steps in the environmental and building safety clearance given by many authorities could be combined. A smaller number of approvals required would not only save the time for investors and the government authorities, but also enable both to focus better on the really important aspects of the process.
- ***Decrease the number of inspections during site development process and decrease the number of agencies involved.*** This can be done either by uniting all inspections under one of the existing organizations such as the Municipalities, or by creating a Government Inspection Center with current inspectors knowledgeable in their fields. This new agency could be supplied with all the codes and standards for civil structures and vested the authority to perform all inspections necessary at the site development stage.
- ***Increase the clarity and transparency of the rules and standards essential to site development process.*** This will require national authorities to focus on establishing general rules and standards to be followed by both investors and government agencies at all levels. Such rules and standards, and possible punishment in case of breaching, should be made clear to all involved. This way, investors get to know their rights and obligations, and it becomes their responsibility in the first place to comply with the rules and standards. Government agencies are then responsible for facilitation and monitoring the implementation.
- ***Set timetables for approvals.*** Many investors today found that the response times at most government agencies depended on whom one knows. Setting the time limit will help the government agencies to self-discipline their operation, and be more responsive to the needs of investors. It also makes the process more predictable which is important to investors.
- ***Develop a standard application form at each approving agency and provide a guide attached to it.*** It is also very important that these forms are translated into English so that foreign investors, especially the executives, feel comfortable and clear on what needs to be done.

xxiii. To address the difficulties investors face in utility connections, the following efforts are needed:

- ***Establish a special Utilities Facilitation Desk in the IPC that would focus on assisting investors in accessing all utilities required.*** This would require IPC to establish and maintain close working relationship with all the key utility authorities,

Investor Road Map

including the Water Authority, the electric companies, and Jordan Telecommunications Company. A small example of such a relationship between IPC and the postal services already exists today, and can be duplicated to other utility areas. A focal point of facilitation could save investors time and frustration, and help speed up the overall utility connection process.

- ***Reduce or eliminate installation charges.*** Imposing heavy installation charges on companies discourages investment and consumption. At least, the power companies in Jordan should consider instituting standard options allowing the firms to defer some portion of the installation costs (with interest or higher tariff rates). Moreover, investors who purchase transformers and other equipment should be allowed to retain ownership, as the current practice represents an on-going policy of small-scale nationalization.
- ***Speed up process of privatization in infrastructure.*** In the medium to long run, the problem of general utility shortage can be best alleviated through privatizing many more public utility authorities and encouraging new private investment in all areas of infrastructure. Managing private entry to infrastructure is a complex, politically charged process. Differ from many other private investments, private infrastructure projects would have the Government more intimately involved, as a regulator, buyer, and/or supplier. To succeed in privatization, the Jordanian Government, like other governments, will need to speed up the process of establishing the necessary legal and institutional frameworks, to allow orderly, transparent and competitive transactions.
- ***Promote more industrial estates and pilot projects with private sector participation.*** The zone approach is appealing because it is likely to have an immediate impact on alleviating the infrastructure bottlenecks for manufacturing investors. Under this option, the developer will receive blanket construction permits for standard factory buildings, which they can then construct on an as needed basis without forcing investors to go through all the paperwork normally associated with building permits. Zone developers also solicit the installation of power, telephone, water and other services for groups of tenants in advance, or in some cases provide such services themselves. This allows interested investors to simply arrive and negotiate most required site development services and procedures directly with the developer, simplifying the process and facilitating economies of scale.

Private participation in zone development can relieve the financial and managerial constraints faced by the Government. It can also encourage competition and general efficiency. The Government of Jordan has long expressed interest in involving private sector in developing industrial zones. However, it will need to address the key issue of land to allow this to happen. A pilot project approach may be appropriate, as it can help the Government avoid the overall political complexity of the land issue, while providing an opportunity to gain experience and test results.

Investor Road Map

xxiv. **Tax payment** presents one of the most difficult and unpleasant procedures for investors during the operational period. There is an urgent need to reverse the current atmosphere of mutual mistrust between tax payers and collectors, and to bring into the process. The Government may consider the following steps:

- **Modify Article 34 of the Income Tax Law to shift the burden of proof from the company to the assessor.** This will likely result in more restrained assessments on the part of the auditors, who will need to be meticulous about providing proof of wrongdoing on the part of the tax filer.
- **Establish and implementing accounting standards and require accounting firm audits (for businesses above certain size).** Accounting firm audits can create a level of legitimacy in tax assessment that is difficult to obtain through self-assessment. Government assessors would be much more apt to trust a third party whose reputation is on the line, and who is fully liable for any assessment errors. Generally established and enforced rules and principles of accounting should be instituted immediately, as they are the necessary foundation for third party assessment.
- **Introduce a random auditing system.** The percentage of returns that are audited should be reduced from 100% to around 10%. In a climate in which offenders are severely punished, random audits would provide enough incentive for tax compliance while at the same time significantly reducing government and private sector time and resources spent on the auditing process.
- **Significantly increase fines for falsifying tax claims.** If after careful review a company is found to have acted dishonestly in the reporting of tax liabilities, the government should be able to impose harsh penalties, including monetary fines and/or imprisonment for serious. This creates a climate of accountability on the part of the private sector, significantly decreasing the incentive to provide false statements. In turn, auditors would no longer be justified in assuming that all companies provide false statements.

xxv. **Customs procedures** have been improved in the recent years, but there is still a long way to go before the system becomes truly efficient in serving the increased in and out flows of goods as the economy demands. In particular, the following steps are worth considering:

- **Install modern infrastructure and facilities for appropriate security and customs operations.** This would consist of a "smart cart" identification and merchandise control system, EDI links for Customs controls, and civil works for the development of centralized clearance areas for the examination of inbound and outbound cargo.
- **In a long run, the country would need to continue to decrease its dependence on import duties as a source of government revenue.** In doing so, Customs Department would feel less pressured to extract fines, instead of directing their focus on

Investor Road Map

streamlining and facilitating procedures. Officials should not be given numerical targets on fines.

- ***Replace the "bounty system"*** by an assemblage of incentives and bonuses that are not tied to the amount of fines levied. The new Customs Law proposed to lower the "bounty" amount that is distributed among customs officials from 40% to 30% of fines levied, and a cap of JD 200 every two months will be established. Although a step in the right direction, it may not be enough, since it still reinforces a "fine" mindset. Customs officials admitted that even though there is no longer an inexhaustible incentive to levy fines, most officials do not meet their caps, and are therefore still prone to over-enthusiasm.
- ***Reform the mindset of Customs Officials at all levels.*** In conjunction with changing the incentive system, Customs Department should strive for an institutional culture that is one of service. Officers at all levels should take it on their responsibility to facilitate the flow of goods, not prevent it. If some documentation is incorrect, goods should still move; documents can be corrected later. With the advent of modern "just in time" production methods and short delivery times, such an attitude is more important now than it was 10 years ago. The goal of customs should be revised to one of trying to have the goods reach their destination within 24 hours of landing—not to levy as many fines as possible.
- ***Improve the professional skills of customs staff.*** Efforts should be made to hire staff with a certain minimum educational level. Recruited staff should be continuously educated on the laws and regulations and institutional procedures, so that they will enforce the same rules in the same way. Staff should also be periodically updated on new technical and commercial development around the world so that they will in a better position to judge new situations when needed.
- ***Implement a pre-tabulated reference list system and streamline the number and types of exemptions.*** The objective is to create a system in which there would be fewer, and more clearly defined, exemptions, perhaps with lower customs fees. This would increase transparency and consistency, and would provide a more level playing field for all economic activities. The reduction in tariff bands has already greatly simplified the tariff assessing process.
- ***Modernize the bank guarantee system.*** A blanket bank guarantee that serves to guarantee all customs duties and formalities should be considered. Such a system would be cheaper because it would spread the risk over the entire spectrum of imports, instead of a few that are irregular. It would also eliminate the inefficient and, sometimes unfair, practice of taking a portion of the importer's goods in payment of customs duties and fees.
- ***Amend Article 40(a) of Customs Law (16) of 1983 to eliminate the need for a Consular certification of value.*** Certifications are an unnecessary burden for traders, they are just another obstacle in the path of commerce. Despite invoice certifications,

Customs continually uplifts the declared value of goods, evidence that certification serves no useful purpose.

xxvi. **Inspections** of production site, both regularly and randomly, are needed to ensure safety, standards and quality. They are particularly important to those industries whose products would have great impact on the public health and safety, such as all food products, pharmaceuticals, and chemicals. However, factory inspections in Jordan today is poorly organized. Inspecting agencies are too many, information is too little, and necessary criteria and standards do not exist in many cases. Frequent but low-quality inspection create a serious hassles to some industries. To improve the system, the Government may consider the following steps:

- ***Better organize and strengthen the inspection process by centralizing the execution in specialized institutions.*** Environment and labor safety control, for instance, should be the responsibility of the environmental agency, equipped with appropriate mandate and expertise. With regard to food quality control, MOH, MOA and ISM could join each other in setting up a special unit for food quality control with supplementary interests. This will enable investors to better answer the government requirements and allow the government to better monitor the necessary process.
- ***Establish clear rules and regulations and make information available.*** To ensure compliance with public interests, manufacturers need clearer guidance in setting up product standards and operational codes. Once such guidance is established, it becomes the main responsibility of the companies to fulfill whatever is mandatory required. The same guidance should then be followed by government officials who are responsible for monitoring.
- ***Award the good citizens and punish the bad ones.*** Companies that have performed well in complying with environment and quality requirements should be awarded by more public trust and respect, while companies that have repeatedly breached the rules and regulations should receive the appropriate penalty. This will make the system more efficient and effective in protecting environment and consumers' safety.

CHAPTER I

INTRODUCTION

1. Jordan has pursued an aggressive economic reform program since 1992. Major strides have been made in stabilizing the macroeconomy, liberalizing external trade, and encouraging private investment, both domestic and foreign. Thanks to the continuous reforms in recent years, Jordan today offers an investment environment that is internationally competitive in many aspects. It provides foreign and local investors a free foreign exchange regime, low trade barriers, reasonable business tax rates, and very little sectoral and ownership restrictions.

2. Investors, however, have complained about many of the administrative barriers that they face when establishing and conducting businesses in the country. The problems reflect a large gap between policy changes and implementation. Although the policies today encourage private sector investment, the existing administrative system is still largely one from the past, emphasizing control and restriction. There are a large number of authorities and agencies involved, often overlapping and duplicating each other's efforts at various levels. Moreover, a large proportion of the middle to low level administrative staff lacks the mind-set and skills required to serve and facilitate the private sector. Finally, many of the necessary regulatory procedures -- such as environmental protection and professional quality control -- lack clearly established rules and standards, which causes difficulties to both investors and executing agencies.

3. The Government is fully aware of the administrative barriers faced by investors. The Investment Promotion Corporation (IPC), established in 1995 by the Government, is mandated to facilitate the administrative process that investors have to go through. In addition to granting incentives and conducting general investment promotion, this function is supposed to be an essential part of IPC's operation. However, in practice, IPC has found the function most difficult and least successful. Apart from many other reasons contributing to the difficulties -- including IPC's own institutional capability -- the overly complex administrative system is clearly the main obstacle. There are simply too many steps required, too many agencies involved, and too much confusion in the rules and regulations in the existing system.

4. Some parts of the Government have made respective efforts in procedural reforms. The Ministry of Industry and Trade (MOIT), for instance, has eliminated the requirement for new businesses to submit a feasibility study in order to obtain the industrial licensing. Company Registrar, likewise, has simplified its application forms and computerized its system to speed up the registration process. The Customs Authorities has also taken various steps to introduce new mechanisms, simplify existing procedures and train staff, with a view to better dealing with the increased flows of goods. Finally, to better coordinate with the tax authorities, IPC has established a joint committee responsible for handling fiscal incentives.

Investor Road Map

5. Such efforts need to be stepped up to solve the problems faced by investors. In authorities and agencies where procedure reforms have not been given a serious attention, special efforts are needed urgently to raise awareness of the problems and strive for improvements. Moreover, respective efforts made by each agency would become most effective if they are done within an overall attempt at simplifying and streamlining procedures and institutions. For instance, some functions currently carried out by different agencies should be perhaps combined. Others that are simply duplicating each other at different levels should be eliminated. An overall efforts could not only benefit investors, but also save time and resources for the Government as a whole.

6. Some of the procedural problems, and usually the most difficult ones, are rooted in existing policies and legislation. Their removal would require continued efforts in policy and legal reforms. Moreover, some issues, such as land, are influenced by multiple economic, social and political factors, and their final solutions will go beyond the need for improving investment procedures. Regarding those issues, looking for solutions that balance the basic needs of investors and other political and economic concerns is perhaps useful and practical.

7. This report walks the reader carefully through the whole investment process as a typical investor would have to today in Jordan. It starts with company incorporation and other general approvals (i.e., incentives and work permits), to special sectoral licensing by line ministries, to approvals required for the access to land and site development, and, finally, to procedures related to operations (taxation, customs, and inspections). Yet, the report is not an investors' guide. As its title indicates, the report provides a critical review of the existing investment process in the country, identifies major administrative barriers faced by investors, and searches for possible ways to remove such barriers. The final objective is to help the Government establish the agenda and timetable for simplifying and streamlining the investment system, with a view to creating an easier and friendlier environment for investors in the years to come.

8. The report also brings in relevant international experience for its recommendations. An increasing number of countries have carried out investment procedural reforms. As competition for private investment intensifies among countries, how easy or difficult it is to establish and conduct businesses in any country becomes an important consideration in investors' location decisions. Recognizing this, more and more governments are focusing on the necessary policy and procedural reforms with a view to attracting foreign investments or to preventing domestic capital going elsewhere. The approaches and methods taken by other countries should offer useful lessons to Jordan.

CHAPTER II

GENERAL APPROVALS

A. Company Registration

9. All companies (domestic and foreign owned) that want to operate in Jordan must register under the Jordanian Law. According to the Companies Law No. 22 (1997), companies may be organized in five forms: General Partnership; Limited Partnership; Limited Liability Company; Limited Partnership in Shares; and Public Shareholding Company.

10. Most businesses are organized along the first three forms. Requirements applied to the Limited Partnership and Limited Partnership in Shares are the same, except for the minimum capital requirement (JD30,000 and JD100,000, respectively). Public Shareholding Companies are formed and registered specifically to conduct banking, finance and insurance business, or to operate concessions.

11. As shown in the following chart 2.1, registration for all companies takes two steps: (1) approval by the Controller of Companies, and (2) registry with the Department of Commercial Registration and Protection of Industrial Property, both at the Ministry of Industry and Trade (MOIT).

1. Approval by the Controller of Companies

12. All companies to be registered must first have the approval of the Controller of Companies. The Controller of Companies is required to obtain from investors all the information required by the Companies Law; to verify that they meet all the conditions set by the Law; and, after registration, to continue to monitor the companies' compliance with the Law.

(Add Chart 2.1: Company Registration Procedures)

13. The approval procedures, as detailed in Article 11 of the Companies Law, are similar for all forms of corporation, although the extent of documentation required may differ from one form to another. For a company of General or Limited Partnerships, the applicants should:

- (a) Fill out an application form requiring the basic information of the company including the names of all partners. All partners or their duly appointed agents must appear at the Controller's office to sign the application and other documents in the presence of an official; however, they may sign the documents in the presence of an attorney who will, in

turn, submit them for registration. Any company with a capital exceeding JD5,000 must have an attorney co-sign the submitted documents. The application form is free.

- (b) Prepare a contract among all partners, based on the model provided by the Controller of Companies. This contract includes the name of the company, its domicile, address, phone numbers, commercial name (if any), capital, duration, name of the partners entrusted with signing for administrative and financial matters, provision for profit and loss distribution, the name of each partner, his/her nationality, capital share, age, address and signature. This contract must be submitted to the Company Controller for “filing” purpose.
- (c) Fill out another application form, called *Bayan*, which provides exactly the same information contained in the contract. This form must be approved and signed by three official reviewers. The first one testifies the inspection of the documents and the finding that they are in compliance with the law, and attests to the signing of all documents in his presence. The second one (supervisor) testifies to the legality of all documents. And finally, the Controller signs the *Bayan* to give his approval. The Controller’s approval is published in the official Gazette. The *Bayan* form is also free.

14. Procedures for establishing a Limited Liability Company are similar to those for companies of partnerships, but additional and more detailed information about the company is required. Mainly, in preparing the contract, based on a model provided by the Controller, applicants must include detailed information on the capital structure. The applicants must also commit to a minimum capital of JD30,000, of which 50% will be paid in full at the time of registration and the balance within two years from the registration date. The contract must list the names, age and nationality of all shareholders, and the amount of their respective capital contributions, whether in cash or in kind, and the total value of shares held by each shareholder. It is stipulated in this contract that the company may not sell its shares to others, increase its capital, borrow money through subscription, or issue stocks or debenture notes. Furthermore, the applicants must attached to this contract a copy of the company’s by-laws, which regulate in detail the management of the company. The by-laws must follow the model provided by the Controller.

2. Commercial Registration

15. Once the Controller of Companies approves to register the company, he transfers the file to the Department of Commercial Registration and Protection of Industrial Property, also with MOIT. The registration procedures vary depending on the type of registration required.

Investor Road Map

16. Company Name Registration: The applicant submits a written request for registration of the company under a certain name. The Department verifies, with the help of computerized database, that the name is not in use by others and issues a certificate signed by the Department Head. The process takes about 2-3 days.

17. Trade Marks: The applicant submits a request for the registration of the trademark, and pays a small application fee. The Department verifies, fairly quickly, the trademark and provides a certification to this effect. It is required, however, that the applicant publishes the trade mark in the Official Gazette for 3 months before he can get the final certificate of trade mark registry. Until then, he gets a Temporary Registration Certificate for the trademark, issued by the Registrar Office.

18. Patents: All patents must be registered in Jordan for protection. The same procedures are applied to those that are initiated in Jordan and those that are brought in from abroad (already registered in other countries). The applicant completes a standard application form, and attaches to it with five copies of the patent's specifications. The Registrar sends these copies to various institutions, such as universities and research centers, to seek their opinions regarding the seriousness, novelty and industrial applicability of the patent. This process can take time, especially for those with sophisticated technical features and specifications. After receiving positive opinions from the various institutions, the Registrar requires the applicant to publish a notice in the Official Gazette for 2 months (with a fee of JD54) before it grants him a patent certificate. The certificate is renewable every four years for a total of 16 years.

19. Industrial Designs: The applicant submits a request on a form provided by the Registrar, with five copies of the design, and pays a fee of JD1. The applicant is issued a certificate valid for five years renewable twice.

20. Commercial Agency of Foreign Companies: Commercial agencies representing foreign companies require special registry, which involves the approval of the Minister of MOIT. The applicant completes an application form provided by the Registrar, with a copy of the contract between the two parties, a Commercial Registration Certificate, and a Certificate of Registration with the Chamber of Commerce. The Registrar submits these documents to the Minister for approval. If approval is granted, the applicant pays a fee of JD25 and is issued a certificate of Commercial Agency.

3. Analysis

21. Despite the recent efforts of the Government to simplify the company registration process, the procedures are still more complicated than necessary. The two steps involving Company Controller's approval and final registration with the Registrar, and the many forms used at each step, appear redundant. Investors are asked to provide the same information several times; and, in many cases, the information required from investors is too detailed.

Investor Road Map

22. The required use of model contracts of companies and the companies' by-laws does not seem consistent with the Government's intention to allow investors the maximum freedom in design and manage their own businesses. Some of the conditions imposed on investors, such as the minimum capital and deposit requirement, are questionable. The minimum capital requirement discourages small businesses, and the 50% capital deposit at the time of registration forces businesses to lock in a large sum of money for a mere formality before they engage in business.

23. In a market economy, company registration serves the simple purpose of facilitating companies in their need for compliance with company law. It also provides a notice to the public of the nature of the companies as a legal entity. In some countries, company registry is consolidated with tax registry, which obligates companies to the rules and responsibility to pay taxes. In a market economy, company registry is not used to assess the economic or financial feasibility of the investment projects.

24. In most countries, company contracts and by-laws are internal documents, and subject to agreements among shareholders only. Rather than issuing a standard format and forcing all companies to use the same, company authorities only specify minimum information requirements, allowing firms to draft their own articles in a manner appropriate for their activities and needs. It is the responsibility of the firms, not the Government, to ensure that their articles of association and by-laws conform to the company laws, and it is their responsibility to provide accurate and truthful information to the public. Any violations of the legal and ethical standards established by law are punishable and can be adjudicated through the court system.

25. Based on these principles, company registry in most market economies involves a simple and speedy process. A single and simple form of application is used, and one incorporator, usually an attorney, can sign the incorporation papers on behalf of the principals often in the presence of a notary public. Only in special cases, such as organizing a bank, must incorporators sign the Memorandum of Incorporation together. In countries where the system is equipped with computerized database, the company incorporation process takes no more than a few hours.

26. Although some countries used minimum capital requirements in the past, increasingly they are removing such requirements in the interest of making investment an easier process, and encouraging smaller firms to enter the formal sector. Where minimum capital requirements are maintained, they are usually applied only to publicly traded companies or companies engaged in certain sectors such as banking and finance. Capital deposit requirements are seldom used around the world, except among a few less developed countries particularly in the Middle East. In a market economy, protecting the interest of creditors from defaulted borrower is primarily the responsibility of the creditors themselves, who are allowed to request audited financial statements directly from investors before providing credits.

27. While the procedures for the registration of a company's name seem simple, the procedures for registering trade marks, patents and industrial designs are impractical and time consuming. For those patents and industrial designs that have already registered in

Investor Road Map

other countries that use rigorous and creditable criteria, the Registrar may accept them without further investigation and register them as a routine matter. The required publication of the trademarks and patents for 2-3 months in the official Gazette is unnecessarily long.

28. Finally, it is not entirely clear why the decision of the Minister of Industry and Trade is required for the appointment of local agents by foreign companies or the registration of agencies in Jordan. If there is a question of security, clearance may be obtained from the appropriate security authority.

4. Recommendations

29. To improve the process of company registration based on best international practice, the Government of Jordan may consider the following steps:

- ***Abolish the office of the Controller of Companies and streamline the procedures for company registry under the office of Registrar.*** There is no rational basis for keeping two separate offices within the MOIT for company registration. Only one office, the Registrar, using a simple process and form is needed to collect all basic information from *all* desired company for incorporation. Further, there is no need to require all prospective partners or shareholders to present themselves at the Controller's office and sign the registration documents in his presence. As in most Western countries, a duly appointed agent, acting as a sole incorporator, or an attorney, can provide this service.
- ***Eliminate unnecessary approvals and consolidate as much as possible those that are still required.*** The approval required for company contracts and by-laws, for instance, should be abandoned. Likewise, the capital deposit requirement is not necessary for most companies except perhaps those for public trading. Finally, the minimum capital requirement should be eliminated, or at least substantially reduced, to encourage small investments needed in Jordan.
- ***Introduce Bona fide registrations for trademarks, patents and industrial designs, which were registered elsewhere.*** This would save time, reduces costs, and brings more efficiency to the process.
- ***Abolish the Minister's approval for Commercial Agencies for foreign companies.*** Instead, the registration of agency agreements should be treated in the same way applied to any other agreements.

B. Investment Incentives

1. Approval by the Investment Promotion Corporation (IPC)

30. The Investment Promotion Law for 1995 (No. 16) provide certain investment incentives, mainly corporate income tax and import duty exemptions, to new and expanding investments in certain sectors. Currently, the Law encompasses the following sectors: industry, agriculture, hotels, hospitals, maritime transport and rail transport. An “Investment Promotion Council” chaired by the Prime Minister with the membership of several ministers and private sector representatives has the power to add any other sector to this list.

31. The scheme for corporate income tax exemptions is described by Article 7 of the Investment Promotion Law. Companies can obtain tax reductions for ten years, starting from the production date, at the rate of 25%, 50%, or 75% depending on the activity concerned and the region in which the investment will be located. The Regulation No (2) of 1996 specifies the classification of sectors and regions. The Law also allows exemptions of customs duties and sales taxes on imports that are part of the “capital assets” related to the projects.

32. As seen in the flow chart 2.2, to receive the incentives, the investor must apply to the Investment Promotion Corporation (IPC) for approval. An application form is provided by IPC, which requires the basic information of the project, its intended size, location, and line of products. The form also asks the investor to list the kind, quantity and value of all capital goods to be needed, and specify those that need to be imported. Other information asked, include the foreign/local ownership, procurement of local raw materials, and hiring of local employees, is for IPC to gather some indication of the economic impact of the project.

33. Based on the information provided in the form, the Project Division of IPC conducts an evaluation of the projects, and prepares recommendations for specific incentives. For income tax exemption purpose, the process is simple, as it is to mainly verify the sector and location of the project and to determine, quite automatically, its entitled level of exemptions according to the Law.

34. For the purpose of import duty exemptions, the process gets more complicated and often difficult. First, it is required that a specific list of items subject to duty exemptions be determined for each investor. The criteria used for such a determination, defined as “fixed assets required by the project,” are not always clear in a wide variety of projects. Consequently, the process is often arbitrary, largely depending on IPC’s judgement of the project’s feasibility and economic impact. There have been plenty of signs that IPC has in recent years become increasingly generous in recommending duty exemptions.

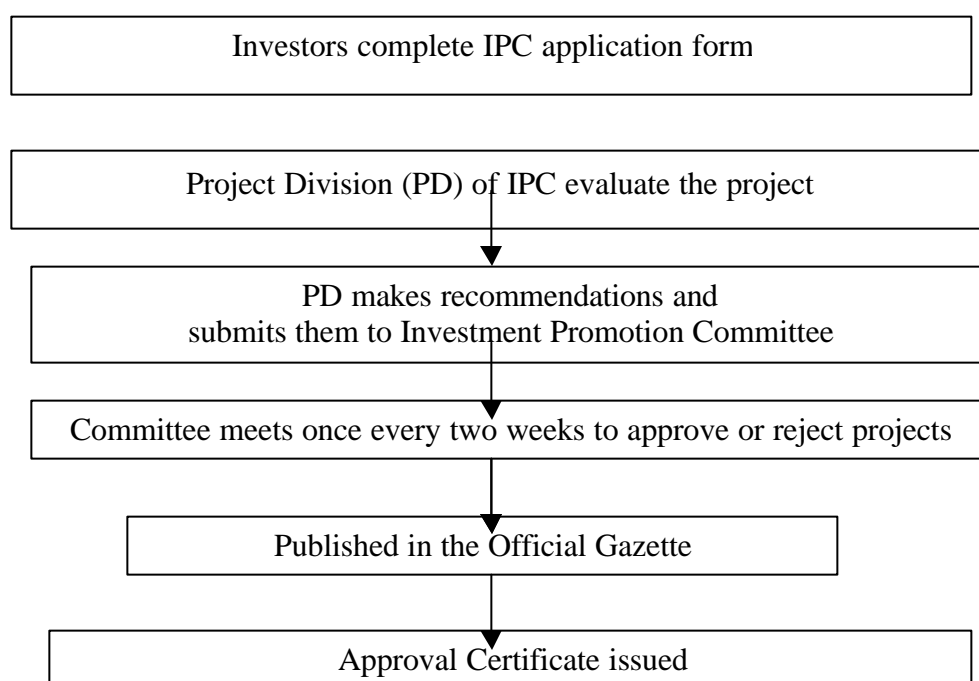
35. The result of the evaluation is submitted before an Investment Promotion Committee, chaired by the Director General of IPC with four other members including the Director General of the Department of Income Tax, the Director General of Customs, a representative of the Ministry of Industry and Trade (appointed by the Minister), and a representative of the private sector (appointed by the Chairman of the Investment

Investor Road Map

Promotion Council). Four members must be present to convene a meeting, and decisions are reached by a majority vote of three. The Committee normally meets once every other week to make decisions.

36. The Law requires the Committee to reach a decision within 30 days. Most projects seem to receive approvals within 2 weeks, contingent on the regularity of meetings held by the Committee. In case the Committee rejects a project, the investor can appeal to the IPC Board within a period of thirty days from the date of notification of the decision. The case will then be re-evaluated by the Committee itself. Upon approval, the Committee issues the investor an incentive certificate.

Chart 2.2: Steps to Obtain IPC Incentives



37. To put into effect the approved income tax exemptions, the following steps must be taken:

- Upon completing the installation of the fixed assets, the investor should notify the IPC in writing of the date of commencement of work or actual production. IPC sends its inspector(s) to the production site to verify the date of starting operation.

Investor Road Map

- The investor should maintain regular books and records and have them audited by licensed auditors. The investor maintains a register for the fixed assets that are admitted to the project. IPC is responsible for monitoring and checking. According to the Law, authorized employees of IPC are allowed to enter the site of the project to check the accuracy of the information.

38. Acquiring import duty exemptions involves the following procedures:

- (a) Investors submit a proposal to IPC which includes a list of all project related capital goods that will be eligible for duty exemptions.
- (b) IPC issues an exemption certification which includes a finalized list of all project-related goods deemed eligible for duty exemptions.
- (c) Upon the arrival of the goods, the original exemption certification and all import documentation must be brought to the IPC offices to verify that the quantity and kind of goods imported match those on the approved list. Upon verification, IPC will stamp on the relevant shipping documents.
- (d) The stamped documentation must be brought to the Customs authority in downtown Amman, where Customs officers perform their verification.
- (e) Receiving approvals from both IPC and the Customs in Amman, the importer takes the documents to the point of entry for clearing the goods.

39. Steps (c)-(e) must be repeated for each shipment of goods received. For importers bringing in goods through the port of Aqaba, this requires at least 3-4 days: one day to travel to Amman, one day to receive IPC approval, and one day to obtain consent from the Customs, and one day to drive back to Aqaba.

2. Analysis

40. The process related to income tax reductions has been relatively easy, but the process for import duty exemptions is difficult. First, the approval process for duty exemptions appears burdensome. The poor definition of duty-free imports leaves an inevitable hole for arbitrary decisions by the executing agency, while encouraging firms to seek for as many as possible exemptions. This would require both parties to spend excessive amounts of time to decide what exemptions are allowed and what are not. In recent practice, IPC has simply relaxed its role of door-keeping. Its generosity may have made investors happy, but causes concerns of other parties of the Government, especially the customs and revenue people. If not given enough attention, it may backlash on IPC operation.

41. The port clearance for imports under exemptions presents another problem. Companies have to return to IPC repeatedly for stamping the documents of each shipment with duty-exempted goods. Because IPC only operates in Amman and the

Investor Road Map

stamping has to done on the original shipping documents, investors have to physically travel back and forth between IPC and the entry ports for the process. This has been especially a problem for companies whose goods arrive at the Port of Aqaba, in which case the process takes at least a few days. Investors sometimes have rather paid customs duties on goods, when such duties are relatively small, to avoid the hassle and time lost in the bureaucratic process for duty exemptions.

42. In all countries that are encouraging investment, import duties on capital goods are subject to zero or close-to-zero rates. This is achieved through either substantially lowering the tariff rates, or provision of duty exemptions. Most countries that resort to the option of duty exemptions have experienced the similar administrative difficulties encountered in Jordan; and the higher the nominal rates, the harder the administration of exemptions. Because of this, more and more countries have moved towards lowering the duties on capital goods while eliminating exemptions.

43. Some countries that choose to retain the exemption system have made various efforts to make the granting process as simple and transparent as possible. Malaysia, Thailand and Indonesia, for instance, have introduced pre-tabulated reference lists of allowable duty-free imports which provide investors and executing agencies clearer and consistent guidance in approaching duty exemptions. Such lists are often prepared jointly by the customs authority, the investment authority and the private sector.

3. Recommendations

44. The rational and effectiveness of the existing scheme for corporate income tax reductions were questioned in the previous FIAS report.¹ Given the low, flat tax rate (15%) for corporate income already introduced, Jordan's tax environment is competitive by regional and international standards. For most serious investors, the impact of additional 25-75% tax reduction on their decision making would, indeed, be marginal. With regard to import duties, exemptions may be important to investors as long as the duties plus sales taxes impose a heavy cost burden on them. However, a better option here is to lower the duties and sales taxes imposed on capital goods in the first place. Since most investors manage to obtain exemptions on such goods by the end of the day, it does not seem to make the best sense to keep the nominal taxes in the book only to necessitate a complex and discretionary process to exempt investors from them.

45. If the Government found it necessary to maintain the incentive scheme, it should at least make the management system more simple, transparent, and automatic. This can be achieved by the following:

- ***Further simplify the process by abandoning the case-by-case project screening.*** For income tax reductions, an investor should be automatically entitled to special reductions, as long as he is engaged in the sectors and

¹ "Promoting Foreign Direct Investment In Jordan: Policy, Strategy, and Institutions," Pp.6-7.

regions specified in the law and regulation. There is no reason for IPC to evaluate the project at all. For import duty exemptions, instead of determining item by item for each case based on vague criteria, IPC could work with the customs and business communities to develop more specified lists of “capital assets” for different businesses, and use such lists as general guidelines when approving duty exemptions for investors. Case-by-case determination would be needed for unusual cases only. This may help save the time and resources investors and IPC have to spend on the process. It may also help limit the potential of unnecessary revenue leakage.

- ***Relief IPC from directly monitoring import duty exemptions.*** Once the lists of duty exempted imports are established, it should become the responsibility of the customs authority, not the IPC, for execution and monitoring. Customs officers at the point of imports’ entry should be informed of the approved lists. While performing a real-time assessment on the exact composition of the goods entering the country, they could immediately check the duty exempted goods against the approved lists. IPC needs to intervene only in case of disagreements. For most investors, especially those whose goods come through the port of Aqaba, this would mean saving days from the import process.
- ***Decentralize IPC Operation.*** IPC currently operates from Amman only, and its working contacts with regional authorities appear weak. Decentralization will allow IPC to get closer to clients (investors), and to function more effectively in facilitating investors’ needs. Various mechanisms can be explored by IPC to achieve a more decentralized operation. These include setting up IPC branches or delegate certain power to local authorities.

C. Work Permits for Expatriates

1. Approvals by Ministry of Labor and Ministry of Interior

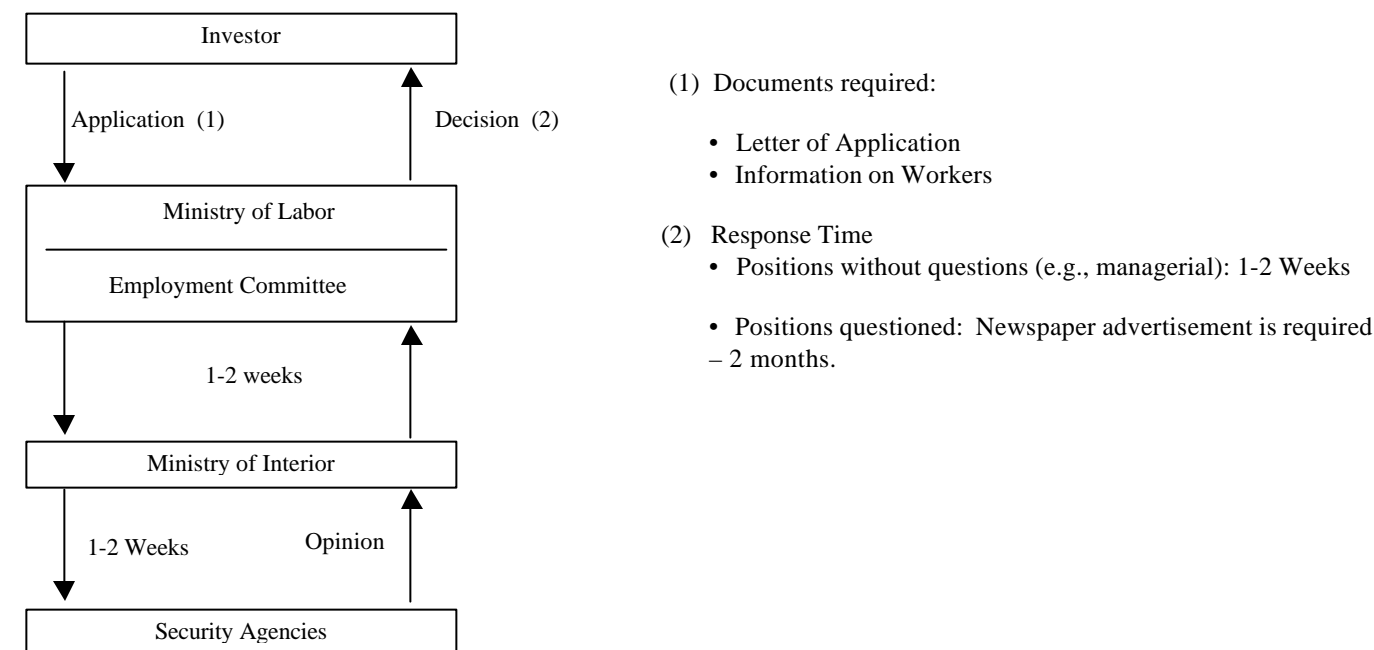
46. As Chart 2.3 illustrates, getting work permits for expatriates involves the approval of both Ministry of Labor (MOL) and the Ministry of Interior (MOI). The MOL screens the need for the services of foreign workers in Jordan. If approved, the MOI then issues the necessary work permits and clear the entry of expatriates and their residence in the country.

47. When a company requires the services of expatriate whose skills are not available among Jordanians, it submits a written request to the Ministry of Labor, which includes detailed information on the expatriates to be brought into the country. To this request, the company should attach a copy of its registration with the MOIT. The Employment Committee at the MOL meets weekly and reviews such requests. In general, foreign

Investor Road Map

workers in managerial positions are readily approved. Technical workers are also approved, although with some hesitance.

Chart 2.3: Labor Permits Procedures



48. When in doubt, the Employment Committee requires the applicant company to advertise the vacant positions in the daily newspapers. If no qualified Jordanians are found, the Committee approves the request.

49. Once approval of the MOL is granted, detailed information on the foreign worker are sent to the MOI which has the authority to issue the work and residence permits. Prior to issuing this permit, however, the MOI conducts a security check by referring the file to three specialized agencies for review: General Intelligence, Military Intelligence and Public Security. With the clearance of all three, the MOI issues the work permits. The permit must be renewed every year subject to both ministries approval. Companies whose initial applications are rejected can apply for reconsideration, with explanation or additional information as required.

2. Analysis

50. The approval by the MOL is based on the Government's concern about the high unemployment at home. While approvals for senior management level staff and the

Investor Road Map

lowest level manual workers (e.g., in hotel business) seem relatively easy, approvals for middle level managers, engineers and technical staff tend to be the most difficult.

51. The policy to give priority to domestic workers is understandable. However, foreign companies doing business in Jordan for the first time often prefer the services of managers and skilled workers that are familiar to the company. Although it is possible to train Jordanians in these tasks, it will take some time before the training is done. Moreover, there are jobs that are of short term in nature (e.g., construction and installation during site development), and companies have to consider the efficiency and cost factors when hiring locals or expatriates.

52. The MOL today lacks a clear definition of categories of workers in short supply, or clear procedures for its approval for labor permits. Much is subject to interpretation on a case-by-case basis. This causes certain amount of inconsistency in implementation, which to investors means unpredictability. Finally, the security check by MOI, involving three agencies' clearance, seems to be overly cumbersome, and its effectiveness is not clear.

53. International experience suggests that expatriates can be crucial to the initial operation of many foreign companies, which need to have complete confidence in their key staff of operation. Expatriates are also crucial to the necessary on-job training for the local staff. Over time, companies almost always limit their use of expatriates to the minimum needed, simply because expatriates are usually more expensive than locals to employ. To put all investors under a restrictive system in order to prevent a small number of abuses is, thus, not a cost-effective for the host country.

54. Many countries have realized this and start to allow investors more freedom than in the past to employ the number and kind of expatriates, with minimum government interference. Mauritius, for example, ceased to require expatriate applications and grants a certain number of work permits to each foreign firm, depending on the size of the investment. A variation to this mechanism, as seen in a few other countries, is to set a foreign/local employment ratio. The advantage of such mechanisms is that, within the set limits (number or ratio), expatriate permits are granted without any questions asked. If additional permits are required, they must be justified. Moreover, "security check" is usually abandoned as an impractical and ineffective way to ensure the national interest.

3. Recommendations

55. Jordan as a small country may have a legitimate right to keep immigration inflows under control. Some checking is thus justified. But simple self-interest dictates that investors will largely exercise care in expatriate hiring. Government policies and procedures should facilitate their basic needs and allow them greater freedom in making the choices. To this end, the following recommendations can be considered:

- ***Introducing mechanisms that would automatically meet the basic needs of most investors.*** For instance, the Government may consider allowing each

significant foreign investment a specified number of work permits, scaled either to the size of the investment or to other indicators, such as total employment. As long as the required permits are within the set limit, they should be granted automatically without screening. This could help minimize the bureaucratic paper work, and serve the interest of the country to encourage investment and local employment.

- ***Simplify and streamline the procedures for those still subject to approval.*** For the work permits outside the allowed limits, for instance, the Government may maintain the approval requirement. However, procedures for the approval should become more simple and transparent. The MOL should publish clear guidelines explaining the rules and criteria used for screening, so that investors can become aware of them. Information asked from investors should be simple, and the process should be made more consistent and predictable. It is also useful to set a short time limit for processing the application forms.
- ***Increasing the time period of the work permits.*** The current one-year period could be increased to, say, three years, which would save many investors and the authorities alike the hassle of bureaucratic approvals.
- ***Reconsider the need for “security check” and explore options.*** The majority of investors would not risk their business by bringing in persons with “criminal records.” To hold up all expatriates for screening, for fear of a small number of cases of abuse, may not be worthwhile, not to say that such a check is impractical in most cases. Better options could be to screen cases only selectively rather than universally, to rely more on enforcing the general laws and order, and to punish criminal activities once they are found.

CHAPTER III

SPECIAL LICENSING BY LINE MINISTRIES

56. Most investment activities in Jordan are subject to special licensing today. Depending on the activities involved, different line ministries are in charge of the special licenses. For instance, Ministry of Tourism and Antiquity (MOTA) is responsible for licensing hotel and other tourism businesses; Ministry of Industry and Trade (MOIT) for licensing all industrial activities (e.g., manufacturing, mineral processing); Ministry of Transportation (MOT) for maritime and land transport activities, and the Natural Resources Authority for mining and exploration activities. Some manufacturing activities may require more than one line ministry's approval before obtaining the final licensing. Food processing projects, for instance, need approvals by Ministry of Health (MOH) before obtaining an industrial license from MOIT.

57. The special licensing used to be pre-conditional to company registration, and thus was always the first step for an investor to take in order to establish any business in Jordan. In the last year or so, the Company Registrar has become more flexible – it began to allow a company to register, provided that the registration will be followed by a final license by a relevant ministry. This allows the investor some flexibility to proceed with several requirements at the same time; but obtaining a special license is still essential, and it remains the very first step for most investors who intends to establish a new business in Jordan.

58. To illustrate the process of special licensing, this section looks into two major activities which cover the major part of private investment projects in the country, tourism hotels and industries (which include general manufacturing, food-processing, and mineral processing).

A. Hotel Licensing Procedures

59. All businesses in lodging require a hotel license by the Ministry of Tourism and Antiquities (MOTA). Chart 3.1 illustrates the three-stage process that an investor would normally go through in order to obtain such a license. The three stages are: preliminary approval for the project, approval for the construction, and final licensing (including star grading).

Investor Road Map

[ADD HOTEL LICENSING CHART 3.1]

Investor Road Map

1. Preliminary Approval

60. Within the MOTA, the Department of Project Evaluation (DPE) is the place where investors go to apply for preliminary approvals for the projects. The application currently requires no form (although one was being developed at the time the study was conducted). The investor submits a letter describing the basics of his intended project, e.g., the location, size, standard ranking, etc. For hotel projects lower than three-stars, DPE requires no review of feasibility studies; and the preliminary approval is usually given within 2 weeks. For three-star hotels and above, however, feasibility study together with an environment impact assessment need to be submitted to DOE for review and it would take much longer for granting the preliminary approval. In both cases, there is no fee involved.

61. While granting the preliminary approval, DPE also informs the investors of the list of the required clearances/registrations by other central and local authorities before approvals for construction can be issued (see Chart 3.1). Investors are then left on their own to fulfill those requirements before they return to MOTA for the approval for starting construction. As Chart 3.1 indicates, for those whose projects are in cities and do not require land from the State, only municipal authority (e.g., Amman) clearance on land survey, zoning and environment is required; and the process is reportedly flexible and fast. For those that are located outside cities where land needs to be acquired from the State, the process become extremely complicated and time-consuming, a subject that will be specifically discussed later under the section of Access to Land.

62. The approval of the design and drawing of the project is another major step in the process. This design and drawing must first be examined and approved by the Jordanian Engineering Association (JEA), a professional institute, and then be finally approved by the Municipal Authority. In addition, building designs has to be approved by the Civil Defense Department (CDD), for building safety purpose. The details of all these will be discussed under the section on Site Development.

63. Company and trademark registry with MOIT is required at this stage. In addition, registry with the Hotel Association is required. Finally this is the time when those investors who seek fiscal incentives need to apply to IPC, especially to secure allowed duty exemptions on needed imports for both construction purposes. Procedures for company registry and incentives are covered in Chapter I on General Approvals.

2. Approval for Construction

64. With all the required approvals and clearance obtained, investor return to DPE of MOTA for the approval for starting construction. Such an approval is given rather automatically if all required papers are in order. Once the approval is given, investors are required to start construction in two years. This time limit can be extended to another two years, but not more, subject to DPE's approval. The approval becomes void if investors fail to start construction within the time limit.

65. During the construction stage, local government authorities and utility agencies get intensively involved, the process of which is discussed in more detail late under Site Development. MOTA is not directly involved at this stage.

3. Final Licensing and Grading

66. When construction is completed, the investor returns to MOTA to apply for inspection as a base for final licensing and grading. Star-grading is compulsory in Jordan and standards are set by the MOTA using international standards as reference.

67. The inspection is carried out by a technical committee within MOTA, usually within 3 days of application according to MOTA. The technical staff of the committee inspects the site and the structure, and compares them to the originally approved drawing. Results of the inspection are provided within 3 days of inspection, which specifies the faults if any are found. Second or third inspection will be conducted if necessary. There are no inspection charges involved.

68. Once satisfied, the technical committee issues the investor a "soft opening" permit which allows the latter to start operation right away. In the meantime, the technical committee prepares recommendations for final licensing and grading of the project and submit them to a higher Committee, chaired by the Secretariat General of MOTA, and composed of senior officials from MOIT, MOH, Ministry of Interior, and Ministry of Supplies. A senior representative of the Hotel Association and an additional private sector representative appointed by the Minister are also on the Committee. The High Committee meets irregularly at MOTA, but at least once a month, to grant the licenses and grades to hotels. There is no license fee charged. The Committee has the power to cancel the licenses on the basis of misconduct.

4. Analysis

69. Investors have questioned the usefulness of the preliminary approval by MOTA, which, though relatively easy to get, does not really offer investors anything. For most cases -- that are of less than three stars -- the project screening involved seems cursory. For cases of three-stars and above, the review of feasibility studies by MOTA often has to

Investor Road Map

seek the assistance of outside professional consultants, due to the limited expertise in-house.

70. Final licensing with star-grading serves as a step for quality control and standards compliance, which is important for hotel business development. However, when this quality control is mandated to bureaucratic entities (e.g., MOTA and Municipality Authority), it may actually become weak because these entities do not necessarily have the technical expertise and competency. In most developed countries, professional associations rather than administrative entities are mainly responsible for grading hotels and maintaining standards. The government authorities, instead, focus on developing a sound regulatory framework that sets and monitors common rules and standards.

71. Strategic planning for tourism/hotel development appears very weak in Jordan. Everyone -- from MOTA to regional authorities, and to tourism and hotel associations -- has some idea about future development, but there lacks a coherent national effort in overall strategy and master planning. Thus, different authorities/agencies may approve projects with different preferences. The lack of an overall planning has caused erroneous growth, with over-development of hotels in some areas and under-development of lodging facilities in others. The inconsistent direction sent by different entities has caused confusion and frustration among investors.

72. The experience of many countries also suggests that long-term and efficient tourism/hotel development can be assisted by a good master plan and zoning policy which carefully consider overall business, economic and environmental impacts. In many countries, this is done through a coherent government effort often with substantial private sector inputs.

73. Acquiring land has clearly been a key issue for most hotel investors interested in sites currently owned by the State -- a common case once outside Amman Municipality. The land issue will be discussed specifically later, but it is in order to mention here that the process for either leasing or purchasing land from the State has been the most time-consuming and uncertain step investors have to go through, as it requires multi-ministerial and multi-agency clearances and final approval from the Cabinet on a discretionary basis.

5. Recommendations

74. Tourism development will play a significant role in Jordan's economic growth in the decades to come. The potential is great and not yet fully tapped. To encourage a more robust and sound growth of the sector, the Government, with MOTA taking a lead, needs to develop a more coherent strategic plan, which would provide investors with a clear direction. Such a master plan should take into account the various tourism resources across the country, capture trends and opportunities offered by the international and regional tourist market, and put business development in a healthy context of long-term economic and environmental benefits for the country.

Investor Road Map

75. In the meantime, the Government should continue to move away from micro-managing the sector, and to create an environment that truly encourages private sector initiatives. The existing screening and approval process could be improved by the following efforts:

- ***Separate the approval requirements for legitimate concerns from those for pure bureaucratic purposes.*** For instance, approvals for zoning and environment safety, project drawing and star-grading are necessary for both public and project benefits, while the “preliminary approval” and final “licensing” by the line ministry appear not.
- ***Strengthen the quality control functions by establishing standards and guidelines and delegate the implementation to public and private professional entities with competent knowledge and expertise.*** For instance, GEEP and EAA that already serve as the professional controllers respectively for environment protection and building design standards, could be given more authorized power without the need for “final” approval by MOTA and Municipalities. The latter, instead, should limit their role to establishing standards and guidelines, to be followed by professional entities in reviewing and approving projects. Star-grading, as in many countries, is also best conducted by business and professional associations, rather than by government administrators.
- ***Have MOTA to focus screening and approval only on a small number of special cases with large impact on public interests.*** Some hotel or tourism projects, due to their location and size, may have substantial impact on the overall regional development or environment, and thus are subject to strong public concerns. Governments may want to reserve the rights to examine the proposals for such projects more carefully to ensure that important public interests are properly safeguarded. Projects subject to government scrutiny, however, should be limited to a small number, with clearly established criteria. Screening agencies that limit themselves to a small number of projects are more likely to do an effective job.

B. Industrial Licensing

76. All industrial activities, located anywhere in Jordan, need a special “Industrial License” from the Department of Industrial Development (DID) of MOIT as required by Regulation No. 52 (1975). Chart 3.2 illustrates the process and the key authorities involved. Industrial licensing takes two steps, the preliminary approval and final licensing.

1. Preliminary Approval

77. Procedures for preliminary approval are simple and straightforward today. Applicants go to DID to fill out a simple form (see attachment X), which requires the basic information of the project (names and nationality of the investor, name of the company, location, size, activities, and a simple description of the technology to be used). DID used to ask for much more detailed information for screening, including project feasibility studies; but those have been abandoned in the recent reform process. As a

INSERT CHART 3.2 : INVESTMENT PROCEDURES FOR MANUFACTURING

Investor Road Map

result, investors only need to fill in a simple form of application, and most get the preliminary approval in two days. There is no fee charged for this approval.

78. There is still a minimum capital requirement (JD30,000) for foreign investors who wish to be engaged in industrial activities. There is no other special restrictions on foreign investors.

2. Final Licensing

79. DID when issuing the preliminary approval provides investors with a list of required approvals registration by a range of central and local authorities before a final industrial license can be issued. These requirements and relevant authorities are summarized in Chart 3.2. Of all the stops shown in the figure, the following ones are the most essential to investors:

- Company Controller, for company and trade mark registry;
- Chamber of Industry, for registry;
- Municipality, or Industrial Estate, or Free Zone authorities, for location approval (zoning, environment, and professional license);
- Land Department of MOF, for land ownership or lease title registry;
- General Establishment of Environmental Protection, for environmental clearance;
- Civil Defense Department, for building safety clearance;
- Ministry of Interior and Ministry of Labor, for expatriate work permits;
- Ministry of Labor, for general labor benefits and safety approval, and
- Standards and Precision Authority, for standards compliance approval;

80. All investors who seek fiscal incentives (both income tax and duty exemptions) must apply to Investment Promotion Corporation, a case applied to almost all projects.

81. If the project involves construction, the following is required:

- Jordan Engineering Association, for approval of project design and drawings;
- Municipality, for final approval of drawings, and build permits

82. If the industrial project requires land outside the municipality, or Industrial Estates, or Free Zones, the investor needs to first secure access to land owned by the State following the same path as a hotel project would, i.e., application to the regional authority with the final decision subject to the Cabinet approval.

83. Some industries are subject to additional special approvals by responsible ministries/authorities. For instance, a jewelry business must obtain the approval of the Central Bank; and a printing business must have the approval of the Printing and Publication Department of the Ministry of Information. A food-processing project needs approvals involving several authorities, including: the Food Departments of Ministry of

Investor Road Map

Health for handling food; the Ministry of Agriculture for handling agricultural products and live animals as ingredients; the Institution of Standards and Metrology for quality standards, etc.

84. After all these approvals are obtained, the investor comes back to DID, MOIT, for final licensing. The DID makes sure that all the requirements are met; and, if everything is in order, DID prepares the Industrial License for the investor, which is to be signed by the Minister of MOIT. Partners and shareholders must present themselves at the DID to complete the licensing; however, a duly appointed agent or attorney may provide this service. There is a licensing fee of JD5.

3. The Initiative on Industrial Licensing Committee

85. The requirement of the long list of approvals by various authorities has been the major source of delay for investors. With an intention to ease the process, DID has recently initiated a coordinating scheme by setting up a “Industrial Licensing Committee,” chaired by the Director of DID and composed of high-level representatives from 21 authorities/agencies involved. The idea is to create a “one-stop shop” that facilitates all the regulatory requirements, so as to speed up the process for investors.

86. One original suggestion was to make all relevant authorities and agencies to delegate the power to this committee, which would be then in the position to approve projects on a weekly basis. This concept was quickly abandoned for its unpracticality. Currently, one specific approach being discussed is to make this committee the focal contact point where investors could come to apply for all the required approvals from the various government authorities/agencies. The committee would be responsible for:

- obtaining all the necessary information from the investors;
- examining and pre-approving the projects;
- obtaining all the other approvals (with the exception of land) from the relevant authorities/agencies, within a set period of time (e.g., 2 weeks); and
- issuing final industrial licenses to investors.

87. The committee started meeting on a weekly basis in January, 1998, but had not yet become functional by the time this study was made. One major difficulty was to get all members of the Committee to agree upon and commit to the working concept and mechanisms that will make the “one-stop shop” scheme work. Some authorities, indeed, even found it difficult to send senior representatives to the regular committee meetings.

4. Analysis

88. The “pre-approval” by the DID, MOIT, is a cursory step and it serves no particular purpose except sending investors a word of “no objection.” Indeed, the purpose of the final licensing is not clear. In most industrialized countries, companies are

Investor Road Map

duly registered and do not need a special license for industrial activities except in a few areas such as food, drugs and other products for human consumption.

89. The approvals that are related to general product quality control and environment protection are legitimate. However, the emphasis of the system today is on “pre-approvals,” and the effectiveness of which in achieving the goal is in doubt. In most countries where product quality and environmental controls are better achieved, emphasis of the system is usually on clearly established industrial and environmental codes and standards, a legal framework capable of enforcing the established rules and regulations, and an institutional framework that assists and monitors industries in implementation.

90. Moreover, many of the approvals required overlap. Environmental clearance, for instance, is diffused into several authorities each with a slightly different focus. Similarly, several authorities need to approve food-processing activities for health and safety related matters. This causes a great inconvenience to investors, who must make many stops, answer the same questions several times, and sometimes be confused by who is doing exactly what. In countries where the system works well for both industry and public interests, authorized professional entities are established to take the responsibility of overall regulation and implementation.

91. Finally, many of the approval authorities still lack clearly established criteria and procedures. Nor do many have committed time limits. Information in most cases is not available at all in English – a typical problem for a foreign investor to face.

5. Recommendations

92. The purpose of the industrial license, and indeed licenses for many other sectors, needs to be re-examined. To attract private investment, the Government will need to limit itself to a minimal program of project screening. It is clearly desirable to shrink the number of sectors in which licensing is required. A fundamental issue here will be to decide what to license and what to be freed from it.

93. One useful approach is to first distinguish those licenses that are for the purpose of public quality control (e.g., food standards, hotel star-grading, etc.) and professional qualifications (e.g., lawyers, doctors, accountants, etc.) from those that exist for political and economic reasons. Licensing of the former kinds is justified, but it could be best carried out by professional organizations, based on established standards and procedures.

94. Licensing for political and economic reasons is justified only when vital interests of the public are involved. For examples, special permits by the government may be necessary when rights are being granted to a public monopoly (such as a utility), when a non-renewable public resource is being tapped (such as a mineral deposit), when public trust is at issue (such as a bank) and when public property is being sold (such as a privatization). Some justified political motivations for screening may include concerns related to national security or sovereignty, including defense-related industries and mass communication media. Apart from the areas mentioned, the Government should not be

concerned with reviewing and approving prospective investment projects, and in those areas licensing should be abolished.

95. It is thus recommended that the Government of Jordan consider the following:

- ***Abandon industrial licensing for the majority of investors.*** The Government should make an immediate effort to review all the sector-related licenses, identify the few areas in which continued licensing will be necessary, and eliminate all others from the requirement. One useful mechanism that has helped other countries reduce licensing is to use a “negative list” approach to limit the screening and approval only to a small number of projects that are strategically important to the country. The criteria used to make such a list are preferably by activities, although size or location are also used in some countries. The result, in all cases, should be that the majority of investment projects are not on the list and are completely released from the licensing requirement.
- ***Supporting the scheme of “one-stop shop” servicing by simplifying the system.*** For those remaining on the “negative list” and thus require approvals, the notion of having a “one stop shop” facilitation is useful, but its attempt would have little chance to succeed unless strong efforts are made at the same time to simplify the procedures themselves. Limiting licensing to only a small number of projects, with the help of a short “negative list,” would be pre-conditional to the success, and indeed the practicality, of such a scheme. Experience in many countries suggests that merely putting all approvals under one roof would not substantially help shorten the process, but cause a lot of inter-ministerial battles. The “one-stop shops” that have worked around the world are those that also focus on creating a new system that minimizes approvals, simplifies procedures, and coordinates all key parties.
- ***Streamline the necessary approvals for special industries.*** Food-processing industry, for instance, needs to be subject to proper regulations that safeguard public health and safety. However, the stops an investor has to make to get the information and approvals need not be so many. The various ministries and authorities should work together to develop comprehensive and coherent rules and standards, make them readily available to investors and professional agencies, and simplify and streamline the procedures through an integrated agency.
- ***Streamline the procedures for environmental protection.*** Similar to approvals for safeguarding public health, regulation for environmental protection is important for both industries and the public. However, the current system, which diffuses the function to too many overlapping authorities/agencies, does not best serve the objectives, but waste the time and resources of investors and public agencies. For instance, if a project located in an industrial zone is cleared for environment purposes by the zone

Investor Road Map

authority, according to properly established criteria and procedures, there is no reason for other ministries and municipality authorities to replicate the approval for the same purpose.

CHAPTER IV

ACCESS TO LAND

96. Land in Jordan is mostly State owned. Privately owned land is available, but it is mainly limited to cities for residential and commercial purposes. Outside the cities, where most new industrial and tourism investments would need to be, land has to be obtained from the State. Industrial projects may have the option to locate in industrial estates, but the two existing industrial zones are already close to saturation, and a third one is still under construction.

A. Privately Owned Land

97. Privately owned land and real estates can be leased or sold freely among domestic private individuals. Leasing or purchasing contracts among companies are primarily the matter of private negotiations, but subject to the final approval by the Cabinet before final registry. All land titles and their changes must be registered at the Lands and Survey Department (LSD) of Ministry of Finance, the procedures of which are described below.

98. For foreign investors, leasing and purchasing privately owned land are not prohibited by the laws but are subject to government approvals. Law No. 40 (1953) requires non-Jordanians to obtain the approval of the Cabinet for leasing properties for more than three years. Law No. 61 (1953) also requires that the lease and ownership of land by foreign corporations for business purposes within cities and villages (municipalities) be approved by the Cabinet. Following the signing of the Jordanian-Israeli Peace Treaty, Law No 11 (1995) further clarified that no Jordanian may transfer the ownership of real estate property or establish any dispositive right, right of use or easement, to a non-Jordanian national without the approval of the Cabinet.

1. Land Title Registry

99. All sales of lands and real estate properties and any transactions affecting their titles must be registered at the LSD. For individuals, the registry procedures require applicants to submit the following documents to the LSD:

- A map of the land from the relevant municipality;
- A master plan of the area where the land is located, from the relevant municipality;
- A certificate from the tax department, showing that all taxes are paid;
- Title of the land or property;
- Identification papers of seller and buyer;

Investor Road Map

- Certifying stamp on the sale contract by relevant municipalities; and
- Approval of the Cabinet if the buyer is a foreign national.

100. For corporate entities, the following procedures apply:

- The applicant submits a letter to the LSD explaining the purpose of purchasing the land or property;
- The application is referred to the Ministry of Industry and Trade (MOIT), and Amman Municipality in case the land is located in Amman; otherwise, the application is referred to the Ministry of Municipalities, Rural Affairs and the Environment (MMRAE);
- Within one week from receiving a positive response, the application is referred to the Cabinet for its approval;

101. Field interviews indicated that once the required documents are submitted, registration of title could take place immediately. However, the time needed to obtain each required document is difficult to assess. There is no limit on the time required to obtain the approval of the Cabinet.

B. State Owned Land

102. State owned land has been mostly for leasing, although sales are not prohibited by the laws. Policies and procedures governing lease or sale are set by the Cabinet, and all final contracts involving domestic or foreign parties require the Cabinet approval.

103. Land jurisdiction of outside the cities falls under MMRAE. However, for the purpose of speeding up the development in Jordan Valley and Aqaba, the Government has established special regional authorities -- the Jordan Valley Authority and Aqaba Regional Authority -- and delegated to them the responsibility to plan overall development of land and infrastructure and allocate serviced land to private investors.

1. Jordan Valley Authority

104. JVA was reorganized in 1988 by Law No. 19, for the purpose of speeding up the development of the Jordan Valley . The Authority has a jurisdiction extending to the Syrian border in the North, and includes the entire Jordan River Valley, the coasts of the Dead Sea, and the lower parts of the Yarmouk River and Zarqa River basins. The region, thus, has the country's richest industrial (Dead Sea minerals), tourism and agricultural resources. Most of , however, are not tapped today.

105. JVA is governed by a board of directors represented by key ministries and authorities, and its Secretary General reports to the Ministry of Water and Irrigation. All

Investor Road Map

JVA operation, including local infrastructure development, depends on the central government budget, and all rents or sale proceeds rendered from land go to the central government.

106. JVA has thus far surveyed and zoned the entire area under its jurisdiction. It has also done the basic infrastructure work for the region. Its master plan (1994) identifies priority development areas for tourism, industries and residence, and prepared detailed site plans in those areas. In 1996, it put for a competitive bidding of two tracks of land on the Dead Sea coast for lease for hotel development. Five bids were received; two highest ones were selected. There has been no more bidding since then, nor is there any future plan for preparing such bidding.

107. To apply for land within the Jordan Valley, investors currently must submit to JVA an application letter describing the purpose and design of the intended projects. Investors also need to provide project feasibility studies and information regarding the investors (e.g., nationality and financial capability). The JVA Board meets at the request of its Chairman to review the project application. There is no provision requiring regular meetings. Nor is there self imposed time table within which the Board must render a decision on the application. Projects approved by the JVA Board are submitted to the Cabinet, with JVA recommendations, for final approval.

108. In negotiating with investors on the terms and conditions for leasing, JVA uses a lease form with major clauses pre-approved by the Cabinet. Any change in the those major clauses requires the approval of the Cabinet. The following are the salient features of the lease:

- The lease term is 30 years, renewable twice subject to the Cabinet approval.
- The lease is to be reviewed every five years for rent adjustment.
- The lessee has no right to use the land for any purpose other than that stipulated in the lease, or to introduce changes in the design of the construction, unless it is approved by the Cabinet.
- The lessee has no priority right to purchase the land at the end of the lease.
- The lessee has no right to transfer the lease, totally or partially; or to have a third party participated in the lease without the prior written approval of the Cabinet. This causes the *de facto* impossibility for the lessee to use the lease as mortgage.
- 1% of the value of the investment project must be paid by lessee at the signing of the lease as a performance guarantee, which will be refunded once 15% of the investment is completed.
- Renewal of the lease will be negotiated between the lessor and lessee within three years before the expiration of the lease. If the lessee does not consent to the new lease terms, all non-movable assets on the land reverts to the lessor without any compensation.
- All disputes are subject to arbitration in Jordan in accordance with Jordanian laws.

Investor Road Map

109. Lease fee for the land is determined by the Cabinet. Currently, it is set at JD 2,500 per Dunum (1,000 sq.m.), which is based on the price reached at the competitive bidding in 1996.

110. So far, only two lease contracts have been negotiated and approved. Together with the two contracts completed at the auction in 1996, there are four signed contracts in total.

111. To encourage investment, the Cabinet recently announced its intention to sell land in the Jordan Valley to the investors. The Cabinet has made it clear that such a sale will be treated on a case-by-case basis, to ensure that the objectives of the investment are consistent with the economic and political interests of the region and the nation. It will also require a performance guarantee from the investor to prevent any land purchase for speculation.

112. Further, the Cabinet has established a selling price based on a calculated future value of the current price of a lease for 30 years, payable at the rate of 8% in yearly equal installments. Thus, a track of land of 64 Dunums would currently have a value of JD4,800,000 (64 Dunums X JD2,500 X 30 years). This means a payment of JD384,000 per year for 12.5 years ($JD4,800,000 \times 8\% = JD384,000$; $JD 384,000 \times 12.5 = JD4,800,000$)

113. So far, no sale contracts have been signed. Some of the investors who have signed lease contracts are interested in turning the lease into purchase. There has been major disagreement on pricing and the issue is still being discussed at the Cabinet level.

2. Aqaba Regional Authority

114. Established in 1984 as a public body with financial and administrative autonomy, Aqaba Region Authority (ARA) undertakes regional planning and social economic development, including the development of land and infrastructure, and distribution of the land to investors through sales or leases. Like JVA, ARA has a Board represented by key ministries and authorities. However, the President of ARA has the rank of minister and reports to the Prime Minister. Moreover, ARA is allowed to retain the rents collected from land leases and proceeds of land sales for local infrastructure development.

115. All land under ARA jurisdiction has been surveyed and zoned into areas for industry, tourism, transportation (port), and residence. A master plan (1995) has been used to guides private investors, although this plan is likely to be revised pending the government decision to transform Aqaba into a free zone or a free port.

116. For tourism projects at the pre-zoned areas, ARA has organized competitive bidding for 4 & 5-star hotels. For these bids, technical and financial offers are required from potential investors. The technical offer accounts for 70% and the financial offer accounts for 30% of the evaluation criteria. The bidders also have to convince ARA about their financial stability, as well as their management ability.

Investor Road Map

117. Non-competitive bidding is carried for industrial projects. Any investor with a project has to first apply to ARA for pre-approval, with a letter introducing his company and intended project. The Board of ARA reviews the application, and, if approving, provides the investor information regarding the availability and price of the land.

118. With the project pre-approved, the investor has to submit to ARA detailed project plans, and attach to them the feasibility studies and environmental impact studies. He can then negotiate with ARA's Investment Department the location and price of land. Currently, the industrial areas are only for lease. Tourism areas can be leased at the seaside areas or sold at the inner areas. ARA's Land Survey Department investigates the recent transactions and decides on the new pricing. As expected, the price of land serviced by roads, electricity and water is higher than the price of lands that are not serviced.

119. Terms and conditions of lease contracts are similar to those applied by JVA, except that the lease holder may have a preferential right to purchase the land with a 15% discount in case the leased land is decided by ARA for sale. Like in JVA, all ARA lease and sale contracts have to go the Cabinet for final approval.

C. Industrial Estates

120. The Jordan Industrial Estate Corporation (JIEC) was established by the Government in 1985, as an independent state agency to develop and manage industrial zones for the purpose of encouraging and accommodating industrial investment. Law No. 59 of 1985 mandates JIEC to lease or sell serviced industrial land and Standard Factory Buildings (SFBs) to investors at the established prices (see Table 1), and to provide all utilities required by investors. The Law also provides industries located in the zones some fiscal incentive in addition to those offered by the Investment Promotion Law. Moreover, JIEC is delegated all authorities and powers of municipalities within the borders of industrial estates, including zone clearance, build permit, occupancy license and professional license.

Table 1. Land Prices at Industrial Estates (including all services)

	Amman Industrial Estate	Al-Hassan Industrial Estate
Leasing of Free Developed Plots of Land	JD 1.500/sq.m./year (\$2.00/sq.m./year)	JD 1.000/sq.m./year (\$1.50/sq.m./ year)
Renting of Standard Factory Buildings	JD 12.000/sq.m./year (\$17.00/sq.m./year)	JD 10.000/sq.m./year (\$14.00/sq. m./year)
Selling Price of Land	JD 20.000/sq.m./year (\$28.50/sq.m./year)	JD 20.000/sq.m./year (\$28.50/sq.m./year)

121. There are currently two industrial estates in Jordan:
- Amman Industrial Estate at Sahab, which is near Amman with an area of 2.5 million square meter, accommodates 348 medium and small industries, and employs about 14,000 workers.
 - Al-Hassan Industrial Estate at Irbid, which is located in the north near Irbid with an area of 427,000 square meter completed in mid of 1991.
122. Both industrial estates are almost fully occupied. Due to the high demand by new investors, JIEC purchased an area around 300,000 square meter adjacent to Irbid. The development of two thirds of the area is expected to be completed by April 1999.
123. Procedures to acquire land (or SFBs) in an industrial estate are, in general, easier than those in the rest of the country. Decisions are made at JIEC, and do not require Cabinet approvals. The following steps are usually followed by investors:
- (a) Contact Investors Services Bureau (ISB) at any operational industrial estate, in which the investor shall be provided with the options of available areas of developed lands or SFBs within the Industrial Estates.
 - (b) Submit to the ISB the application form providing basic information of the project, including the size of the investment and areas required, specific location preferred, and the anticipated power and water requirements.
 - (c) Attach to the application the documents of industrial license, company registration, and a letter of authorization by Ministry of Industry
 - (d) Receive JIEC' decision within two working days from date of submittal.
 - (e) If accepted, sign a rental or selling agreement with JIEC, and commence the project immediately.

D. Analysis

124. Once private land is obtained, the registration procedures with LSD are relatively easy for individuals but not for companies. The clearance of ministries and municipalities required at this stage overlap those done at the stage of business establishment (as discussed in Chapters II and III) and at the stage of site development (as will be discussed in Chapter V). The Cabinet approval required may reflect the political and security concerns of the Government; and, if so, the question is whether it is desirable for the Cabinet to keep eye on all pieces of land or just those that have significant political and security impacts.

125. But most difficulties related to land are found in the process of acquiring land from the State. Private land in municipalities suitable for new investment is limited and

may not fit the companies' geographic need. For industrial projects, established industrial estates would be the first option. However, existing zones are pretty much full, and the remaining spaces may not meet the physical location requirements. There is clearly a need, and a strong desirability, to expand industrial estates – a subject that will be returned to when the issue of site development is discussed in Chapter VI. The discussion here focuses on the state land outside industrial estates, where policies and procedures become most difficult.

126. The need to develop Jordan Valley and Aqaba brought the land issue up to the front. It is clearly the Government's intention to develop these two strategically important regions by encouraging private investment. Both regional authorities have carried out significant public work in basic land and infrastructure development. Both authorities have made available detailed master plans and specific zoning information for prospective industrial and tourism investors. Investors have responded with increased interests in those regions. Many, however, would like to see improved policies and procedures regarding land allocation before making long-term investment commitments.

127. In both regions, procedures for acquiring land have been characterized as time consuming, discretionary, and unpredictable. There is some difference between JAV and ARA in the degrees of the problem. JAV appears to have the most restrictive process, as all applications have to be scrutinized and determined by the Cabinet. As a consequence, despite all the effort by the Government in the last ten years to promote the region, and despite the high interest among investors in the region, very few investment projects have been realized. In Aqaba, where the regional authority is given more autonomous power and becomes more flexible in handling land, more investment activities have taken place, and they in turn have contributed to the overall local development.

128. In both regions, investors are concerned about the terms and conditions currently set in the lease contract, the main form for acquiring land from the State. The 30-year duration is generally found too short to allow investors to make substantial investment commitment and secure long term financing. The non-transferability of the lease and the restrictions on sub-leasing and adjusting project designs further limit investors' right to the land and increase the risks they have to take. Moreover, the provision that the State retains a first priority interest in immovable assets on the leased land eliminates investors' capacity to use such assets for mortgage purpose.

129. The mandatory pricing currently imposed on leasing by the Government has also caused controversy among investors. In both JVA and ARA, auctions have been tried in the past, with quite a success in creating more realistic market values for the land under concern. Winners of the bidding tended to be serious investors, and were willing to pay higher prices than the original government offers. It is not clear why the Government has decided not to continue the competitive bidding, but to switch to mandatory allocation.

130. Many investors are seeking to purchase land, partly because of the dissatisfaction with the lease conditions. The recent announcement by the Cabinet to allow land sale in the Jordan Valley has stirred a lot of interests among investors. Similar questions, however, remain regarding the completely discretionary procedures and rigid pricing

Investor Road Map

mechanisms. Unless these questions are more clarified, it is unlikely that investors will find the access to land any easier than it is today.

131. Land issue is among the most difficult policy issues in many developing countries, because it is socially and politically sensitive. Problems of general scarcity of land and concerns about land speculation often add to the complexity of the land policies. However, in all countries that are serious about promoting private investment, the land issue has to be resolved one way or the other in order to meet the basic needs of investors.

132. Many countries or regions, for political and historical reasons, maintain some forms of restriction on private, and especially foreign, ownership of land. Even in those with few restrictions, such as the United States, foreign ownership can be a politically sensitive issue. Some countries have, therefore, established a long-term land lease system to accommodate the needs of investors. In Hong Kong, Singapore and Switzerland, a stable, long-term lease system has played an important role in economic development.

133. Long-term land lease regimes of different countries may vary in form and content. However, there are key features that are usually incorporated in a long-term lease contract that is meant to satisfy the needs of investors. Of these, the most important are provisions for:

- A clear and sufficient duration of leases. Most countries allow 30-90 years for a long term lease term; and the less developed the land, the longer term tends to be allowed.
- Transferability of the lease. Different from short term lease, a long term lease is typically allowed to be transferred to a third party, particularly to lenders as mortgaged property.
- Inclusion and protection of lenders' rights and interests. Because of the "financiability" of a long term lease, the contract typically includes the lender as the third party and allows the lender to foreclose on the mortgaged property, and sell and transfer the leasehold to third parties.
- Lessee's right to design and develop the use of the land within the legal framework (e.g., in conforming with zoning, environmental, and building regulations). This includes the freedom to adjust his project designs and to sub-lease. Restrictions on such rights imposed by lessors must be clearly laid in contract and would reduce the "use value" of the leased land.
- Lessee's right to the property he builds on the leased land during the lease term, and his right to fair compensation for the property by the end of the term.

134. Some countries have further attempted to remove ownership restrictions, with a view to reducing undue obstacles on those types of investments which are particularly desired by the countries. Ireland, for example, had for many years prohibited foreign ownership of land, principally agricultural land, to prevent "intrusion" by Europeans.

Investor Road Map

However, to comply with the recent round of open access to investors from the European Union, land ownership restrictions are relaxed accordingly. In the Middle East region, where foreign ownership of land is generally prohibited for security concerns, some governments, such as Egypt and Israel, have been relaxing the restrictions in selected geographic areas where foreign investment is particularly wanted.

135. To distribute state land to investors efficiently, many governments have resorted to a public auction process for lease or sale. Countries pursuing such an approach have benefited from the creation of a level-playing field for investors, a more appropriate market value for the land, and increased revenue for the states. For many years in Hong Kong, auction of the so-called “crown land” to private investors was a significant source of government revenue. Public auctions accompanied by transparent rules and procedures also prevent bureaucratic delays and corruption.

136. In some countries where land is particularly scarce, governments have resorted to a number of measures to limit or discourage land speculation. Speeding up the process of clearing land for development and making more land available for auctions to investors are always among the most effective ways of discouraging land speculation. Governments have also realized that administrative measures (e.g., pre-screening projects and investors) are not effective in preventing speculation and they create undue bureaucratic problems. Some governments have thus resorted more to legal (e.g., setting prevention clauses in standard contracts) and fiscal (e.g., high capital gain tax and property tax based on the highest use value of the land) measures to render better results.

E. Recommendations

137. Jordan, like all other countries, will have to determine its land policies and management systems according to its overall political and economic needs. Land in the prioritized regions, and indeed in the whole country, can be politically sensitive and needs to be handled accordingly. However the difficulties encountered by investors in accessing land need to be addressed, if those regions and the country as a whole, are to be successful in attracting private investment as the Government desires. Only by opening up more land for investment can a greater level of investment be realized in the coming years.

138. Keeping in mind of Jordan’s situation, and drawing from international experience, the following steps are recommended:

- ***Reform the lease system to make it more investor-friendly.*** In the immediate run, the Government may focus on improving the leasing system to make it adequate for investors’ basic needs. To do so, the Government may use guiding principles based on international best practice. There is a need to pay special attention to the duration and transferability of the lease, and the freedom of investors to use the leased land as long as such uses fall within the relevant legal framework, master plans, and codes for environmental protections.

- ***Improve the land allocation and pricing system by using market-oriented mechanisms.*** The current system to allocate and price the available land has been economically inefficient and administratively difficult, for both interested investors and executing authorities. Market mechanisms, such as public auction, as experimented in Jordan in the past and as done in many other countries, should be seriously considered to benefit both serious investors and the public interests.
- ***Delegate more autonomous power to regional authorities.*** JVA and ARA should be given more autonomy regarding the allocation of land under their jurisdictions. Except for cases with strategic sensitivity or perhaps of very large size, authorizations for land transactions should be provided at the regional level. Cabinet could reserve its power over special cases.
- ***Safeguard vital public interests by strengthened legal and institutional framework.*** Concerns about potential speculation or environment protection should be handled through protective clauses and penalties put in the relevant laws and model contracts. Jordan already has some of these mechanisms in place. For instance, hotel license sets time limit for the construction to start; and environmental authorities are established to guide and monitor companies' operation. Such a mechanisms could be strengthened in implementation. The Government may also consider introducing fiscal instruments, such as high capital gain tax and property tax to discourage land speculation, and more severe financial penalties for those who break the environment codes.
- ***Simplifying the registration procedures at the LSD by eliminating unnecessary requirements.*** The clearances of ministries and Cabinet appear redundant and should be abandoned. Some of the procedures are rooted in different laws enacted at different times. Simplifying the land registration procedures may require an effort to update the laws and unify them into one law which covers all the matters related to land.

CHAPTER V

SITE DEVELOPMENT

Once land is obtained, site development becomes crucial. There are two main parts involved: construction and utility connections. Chart 5.1 shows the main stops investors have to make to obtain the required approvals during each part.

139. Procedures for developing a site as described in laws and regulations are similar across the country. The following provides an overview of typical locating procedures and the range of processing times and costs a representative investor would be likely to encounter

A. Development and Construction

1. Zoning and Rezoning

140. In general, investors do not find it difficult to obtain a zoning clearance from a local authority. In most cases, zoning is predefined and relevant information is readily available. However, should an investor wish to locate his project on a site that is not consistent with the existing zoning, he would be need to apply to the municipality or regional authorities that have jurisdiction over the particular site for “rezoning.” Usually, the process requires the investor to submit a “change of use” request letter, explaining the reasons of the request. A copy of the site plan also needs to be attached. The relevant authority then assesses the request. If approved, the investor pays a fee depending on the type and size of his project.

Outside the cities, land falls under the jurisdiction of the Ministry of Municipalities and Rural Affairs and the Environment (MMRAE), and investors who want to change the use of land or buildings must apply to MMRAE for “rezoning.” There are two committees under MMRAE that issue approvals at different levels of importance: the Local Planning Committees meets weekly to approve cases with minor changes (e.g., a structural change in an existing facilities); and the District Planning Committees that handles cases with more complications. In addition, there is a Higher Planning Council, comprised of senior officials of several ministries and Amman Municipality, that handles cases with most significant changes (e.g., to establish an industrial plant at an unplanned).

Investor Road Map

Chart 5.1 Organizations Involved in Construction and Utility Connections

2. Building Permit

141. In order to start construction of their facilities investors have to obtain a building permit from the municipality or regional authorities that have jurisdiction over the site. Since procedures followed by various municipality and regional authorities are essentially the same, the following steps are usually required:

- (a) The investor files a written application (no standard forms) to the local authority in charge, attaching the following documentation:
 - land title or lease agreement
 - land sketch (for location of establishment)
 - site sketch (showing where the building falls within the site)
 - initial design drawings for facilities
 - letter of no-objection from line ministries
- (b) A committee then meets and sees if the project qualifies as an investment project and meets the requirements regarding land size, building heights, green areas, parking lots, etc.
- (c) The committee, after studying the project, informs the investor about the necessary changes to be made, if any. This initial review takes a maximum of 2 weeks.
- (d) The updated design drawings of the project, stamped by the engineering office (designer), are sent by the investor to the Jordan Engineering Association (JEA) for obtaining an approval stamp.
- (e) In addition, the investor sends the project to the General Corporation for Protection of the Environment (GCPE), the Civil Defense Department (CDD), the Water Authority, and the Department of Antiquity of the MOTA for clearance, which takes from 1 to 2 days each.
- (f) With the clearance of all authorities, the municipality or regional authority finally approves for a building permit.
- (g) The investor pays a fee, determined by the authority, before receiving the permit. The whole process may take from 10 days to 1 month.

142. In Amman Municipality, investors may save some time by applying for a “preliminary” building permit before the final one. To do so, an investor submits three copies of architectural drawings to the Municipality without collecting the documents from other agencies. The Municipality takes about a week to review the project for meeting the various requirements and codes set by the municipality. If satisfied, the Municipality issues the preliminary building permit. The investor needs to follow up by

Investor Road Map

obtaining all other clearances, but, with the preliminary permit, he is allowed to start certain activities such as demolishing the existing structure, and excavating for the new facility.

3. Environment Clearance

143. All investment projects need an approval by the GCPE as a pre-condition to the building permit, as well as sectoral licenses (or renewal of the licenses). This agency, established by the Law of Protection of the Environment No. (12), 1995, is a corporate entity linked to the MMRAE but with administrative and financial independence. GCPE is governed by the inter-ministrial Council of Environment Protection, which meets once every month to discuss and set policies, strategies, laws and regulations on environment protection. Currently, GCPE is working on the details of the criteria and procedures needed to evaluate projects for their environment impact.

144. To apply for GCPE clearance, the applicant must be a registered company, and has obtained zoning clearance from the municipality. The applicant then follows the following steps:

- (a) Applicant submits project information to the GCPE (currently, an application form for this purpose is being developed).
- (b) A GCPE team inspects the proposed site (takes 1 day to 1 week) and a team of engineers at the main office prepares a report.
- (c) GCPE's Directorate General reviews and approves the report in 1-2 days, and sends it to the MMRAE for final approval;
- (d) Upon the final approval, a Higher Council within the MMRAE issues the Environmental Clearance. The Higher Council meets two to three times a week.

4. Building Safety Clearance

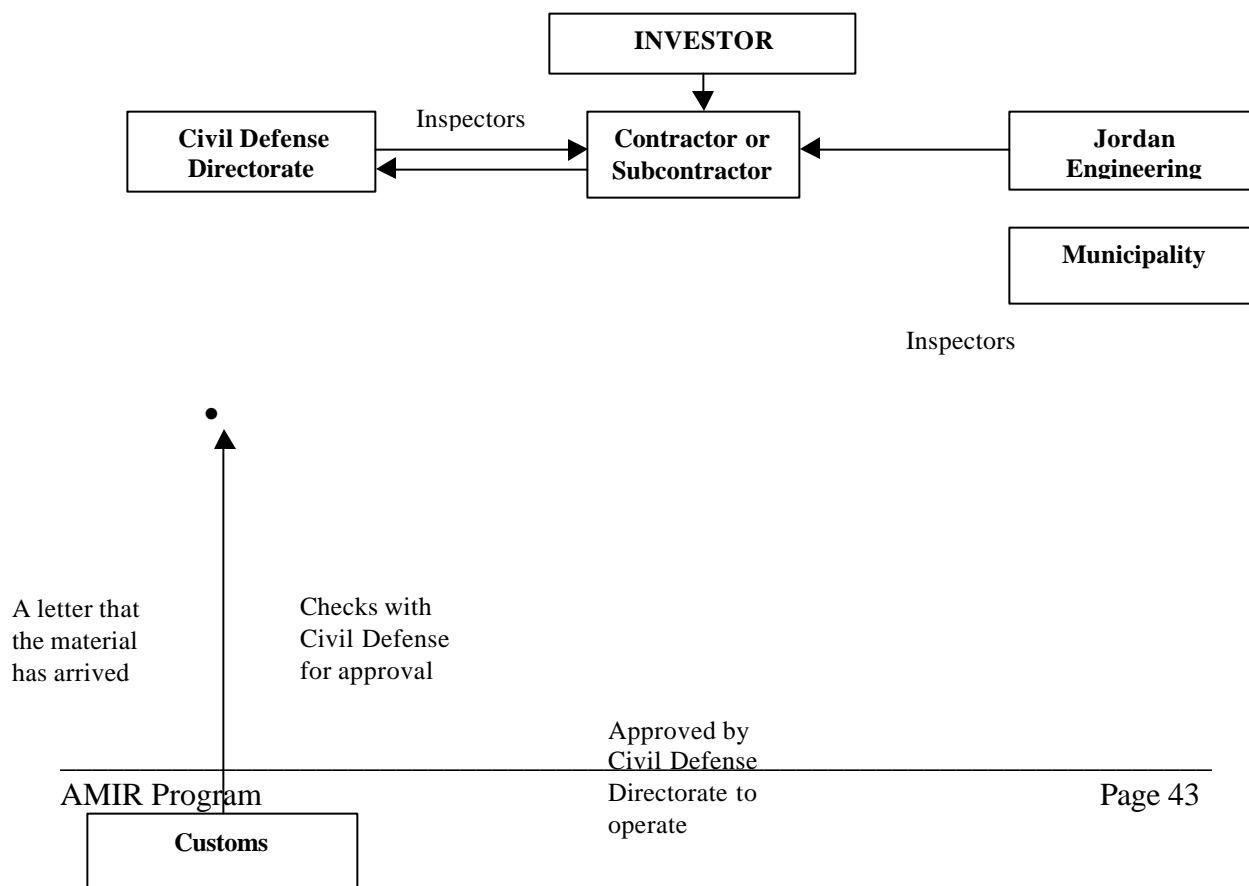
145. All projects require the building safety clearance by CDD in order to be issued with a build permits. Such a clearance includes the approval of drawings and site inspection, regarding aspects such as first aid, fire fighting, and rescue service for disasters. The CDD is linked to the Ministry of Interior, and has a representative office at all 12 Governorates in Jordan. Since 1993, CDD observes the new Jordanian Building Code's Section for Fire, which is very close to the National Fire Protection Agency code of the US.

146. Chart 4.3 shows the main steps followed by investors to obtain safety clearances. Usually the investors subcontract the building designs to professional designers, and leave it to the latter the large responsibility to go through these steps:

Investor Road Map

- (a) The sub-contractor brings preplans to CDD, for preview and suggestions.
- (b) The sub-contractor submits the architectural, structural, electrical and mechanical drawings to CDD, for examination and approval.
- (c) Once approved by CDD, the investor takes the plans to the JEA, the municipality, and other authorities involved in issuing a building permit.
- (d) CDD inspects sites throughout construction, and the frequency of inspections depends on the type of the project. At the completion of the construction, CDD inspects all equipment like fire alarm systems, fire fighting equipment, emergency lights, etc.
- (e) Investors must import all fire equipment that is approved by Underwriter Laboratories Factory Mutual (ULFM) of United States or by Loss Prevention Council (LPC) of United Kingdom. To import such equipment, the investor needs to apply to the CDD, with specific description of the equipment to be imported. CDD often asks for catalogues, samples, and certificates for these materials from ULFM or LPC to ensure against possible imitation of original equipment.
- (f) Once satisfied, the CDD issues a letter of approval, which is required by the Customs for port clearance.

Chart 4.3: Procedure to Get Safety Clearance



5. Occupancy Permit

147. After the building is complete, the investor has to obtain an occupancy permit from the municipality or regional authority in order to get the utilities connected and start the use of the building. This permit is to ensure that the building is constructed in accordance with the approved design drawings.

148. To obtain the occupancy permit, the investor has to apply to the municipality authority at the completion of the construction. The authority sends inspectors to the facilities to ensure that there are no changes to the facilities from the earlier drawings and all safety equipment is functional. This inspection is often done in parallel with the inspections by the CDD. At the satisfaction of both inspections, the investor is issued the occupancy permit.

149. The fee for the occupation permit is determined by the financial department of the municipality and it depends on the size of the facility. Any additions to the building require municipality's approval, and this will take from 7 to 10 days. However major changes such as addition of a new story will require much longer time and will restart the procedure of getting a building permit.

6. Professional License

150. Professional license is required to wrap up the construction process and to finally allow investors to initiate operation in the facilities built. This license is often used by authorities as a "catching-all" check for the investor's compliance with all the conditions required by laws and regulations for the activity to be carried out and to ensure that all concerned parties have given their agreements. The license is issued at the municipality level.

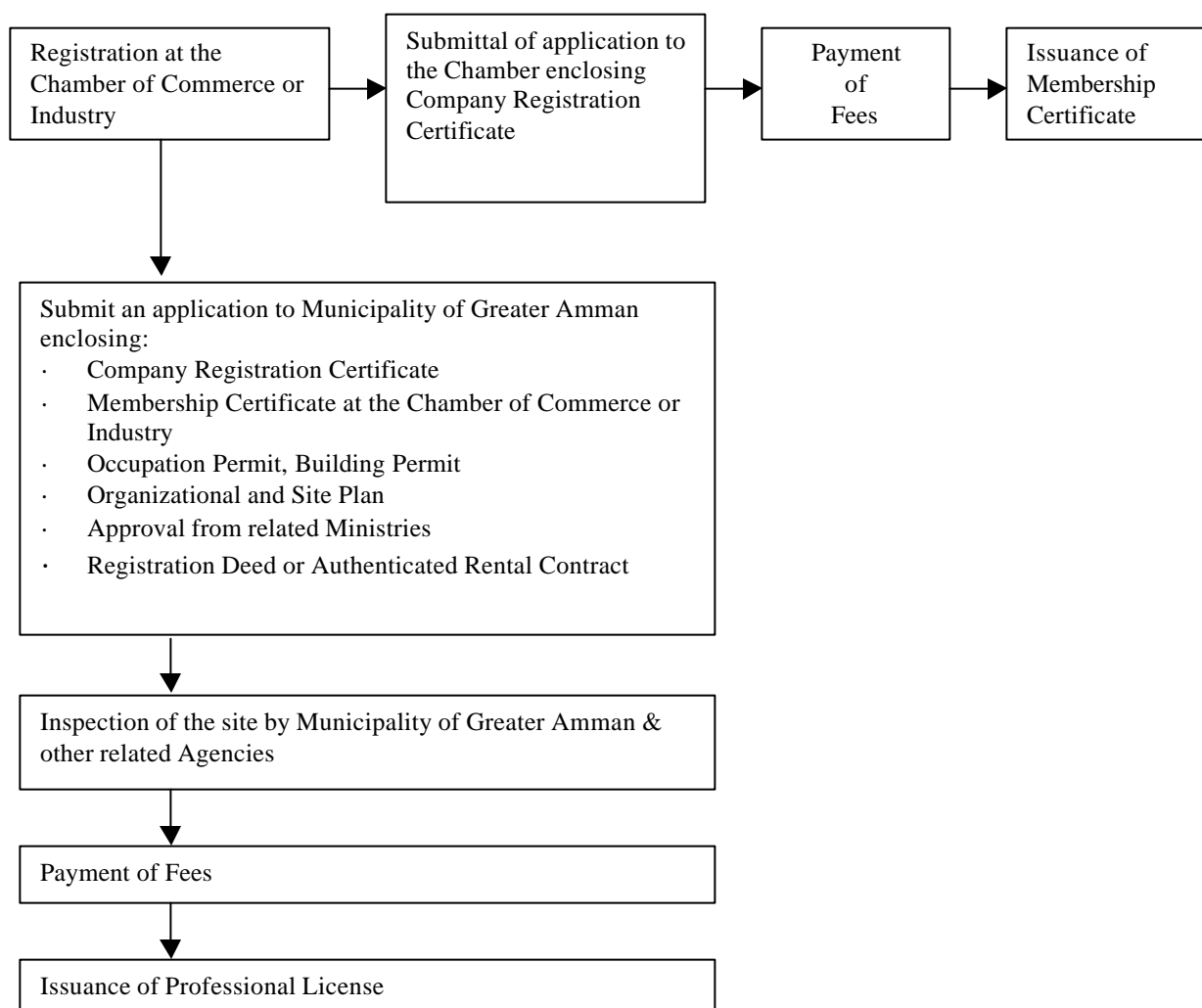
151. Procedures for obtaining a professional license for a commercial company tend to be simple and fast. But procedures for an industrial company becomes much more complicated and time-consuming. This is because that the latter requires pre-approvals by many other concerned ministries and departments, and involves the check of compliance with many specifications and regulations, especially in the field of chemical, pharmaceutical and food industries.

152. In order to obtain a professional license, the law requires the submission of an application to the municipality authority enclosing a company registration certificate, a membership certificate in the Chamber of Industry or Commerce, an occupancy permit of the building, and a registration of land ownership or a lease contract. In addition, approvals of the project by the concerned ministries are required. Finally, satisfactory inspections of site by the Municipality, CDD, the Ministry of Health (in case of food industries), and other ministries and agencies depending on the types of industry, are required.

Investor Road Map

153. Time required to obtain a professional license ranges from 3-4 days in case of availability of all required approvals and permits. However, if the investment site were outside municipality borders, the time required would be 2 weeks because the procedures would fall under the mandate of the Specialized District Committee in the concerned area. The professional license needs to be renewed every year. The renewal of this license takes no longer than two days.

Steps for Applying for Professional Licenses



7. Analysis

154. Although the purpose of many of the approvals and clearances required at the construction stage is legitimate, the system appears unnecessarily complicated and redundant. Too many agencies are involved and too many steps of checking are required, often for the same or similar purpose. Environment protection, for instance, has to be

Investor Road Map

cleared several times, by GCPE, by municipalities, and by other national and local authorities depending on the kinds of industry. Likewise, building safety approval has to go back and forth between the CDD, JEA, and municipalities. All these, moreover, are checked once more at the end through the professional license process. Although no single one of these steps appears terribly inhibiting, together they have caused the whole process to be long and tiresome.

155. The difficulties are often exacerbated by the lack of clear rules regarding all necessary processes to obtain the required approvals and permits, as well as by the lack of special guidelines on the documents needed and procedures to be followed in obtaining them. Often, there are no written rules, or clear procedural guidelines. The study of the project and the decision are at the authorities' discretion.

156. Furthermore, there is a general lack of clarification regarding specific criteria and standards in building codes, safety requirements, and environment regulations. Many of the authorities in charge do not use standard application forms; most cannot provide clear information required by investors; and none has made an information available in English. As a result, the investors, and indeed the government officials as well, are often kept in dark about the investors' rights and obligations. Much is left to interpretation, and sometimes negotiation. In the case of site inspections, for example, the investor is not made aware of what is required by laws and regulations. Rather all depends on the discretion of individual inspectors. This not only causes a feeling of insecurity and frustration among investors, but also great amount of confusion among government executing agencies and officials.

8. Recommendations

157. Jordan can benefit a lot by adopting some of the international best practices in improving the process for construction. The following steps should be considered:

- ***Eliminate the redundancy of approvals and duplication of efforts.*** Efforts are needed to identify what approvals are essential and what are not. Some preliminary approvals and final checking may serve no useful purpose and should be abandoned. Overlapping steps in the environmental and building safety clearance given by many authorities could be combined. A smaller number of approvals required would not only save the time for investors and the government authorities, but also enable both to focus better on the really important aspects of the process.
- ***Decrease the number of inspections during site development process and decrease the number of agencies involved.*** This can be done either by uniting all inspections under one of the existing organizations such as the Municipalities, or by creating a Government Inspection Center with current inspectors knowledgeable in their fields. This new agency could be supplied

with all the codes and standards for civil structures and vested the authority to perform all inspections necessary at the site development stage.

- ***Increase the clarity and transparency of the rules and standards essential to site development process.*** This will require national authorities to focus on establishing general rules and standards to be followed by both investors and government agencies at all levels. Such rules and standards, and possible punishment in case of breaching, should be made clear to all involved. This way, investors get to know their rights and obligations, and it becomes their responsibility in the first place to comply with the rules and standards. Government agencies are then responsible for facilitation and monitoring the implementation.
- ***Set timetables for approvals.*** Many investors today found that the response times at most government agencies depended on whom one knows. Setting the time limit will help the government agencies to self-discipline their operation, and be more responsive to the needs of investors. It also makes the process more predictable which is important to investors.
- ***Develop a standard application form at each approving agency and provide a guide attached to it.*** It is also very important that these forms are translated into English so that foreign investors, especially the executives, feel comfortable and clear on what needs to be done.

B. Utility Connections

158. As the availability of serviced land varies from region to region, so does the capacity of utility providers to meet customer needs. In general, in areas where land is already serviced and no upgrades are required, utility hook-ups are fairly simple and swift. Where capacity upgrades or servicing is required, the investor may face a more complicated process and a long wait for connections.

1. Electricity

159. After the privatization of Jordan Electric Authority , Jordan today is divided into three concession areas for power supply: the Amman region supplied by Jordan Electric Power Company (JEPCO); the south region supplied by National Electric Power Company (NEPCO); and the north region supplied by Irbid Electric Company (IDECO). All three companies are private. NEPCO is the one that generates power for all Jordan, while the three companies work together for distribution.

160. Procedures for getting electricity connection are similar with the three. Typically the investor needs to submit a written application to the electric company, and attaches to it the following documents:

- land sketch (obtained from the Municipality),
- site sketch (obtained from the Municipality),
- land title or lease agreement,
- the peak load needed for the project with details (including the operation factor and future expansion),
- drawings of the building authenticated by an engineering office,
- certificate of company registration and the name of the authorized staff person,
- Occupancy Permit or Building Permit if the construction of the building is not complete
- No-objection letter from project-related ministry (for projects in the Aqaba region, NEPCO requires a no-objection letter from Aqaba Region Authority, as well.)

161. The application is reviewed by the technical staff of the electric company to identify the type of supply of electricity required by the project. The study takes 2 to 3 weeks. However, it may take a month if there is no established power network at the proposed location of the establishment. There are three scenarios to supply electricity:

- use low voltage network for small loads (up to 60 amps);
- use low voltage cable from existing subsystem for medium loads (60 to 200 amps); and
- build a substation inside the project for heavy loads (200 amps or above).

Investor Road Map

162. Normally, the electric company does all high voltage installation and the investor does all low voltage installation inside the building. The electric company also completes the installation of a meter right before the switch is turned on. If a substation is needed, the investor pays the cost of the substation, the high-tension feeder, and the cable needed. In the case of heavy loads, the owner of the project should make the site and room needed for the substation available. The investor should provide all civil works requested by the electric company in accordance with the specified requirements.

163. The cost of the substation that will be paid by the investor is determined using the ratio of the power he will consume to the power generated by that substation. There are also the cost of connection, subscription fees, and insurance to be paid by the investor.² The electric companies require a deposit for two months of consumption depending on the usage requested.

164. After the investor pays the proposed cost of the connection, the electric company starts working on the detailed drawings for the civil work to be built for the substation. The company submits the detailed drawings for the civil work needed within 2 weeks.

165. Construction of the substation facility may take another 2 weeks. When the construction of the substation room is complete the investor calls the electric company for substation installation.

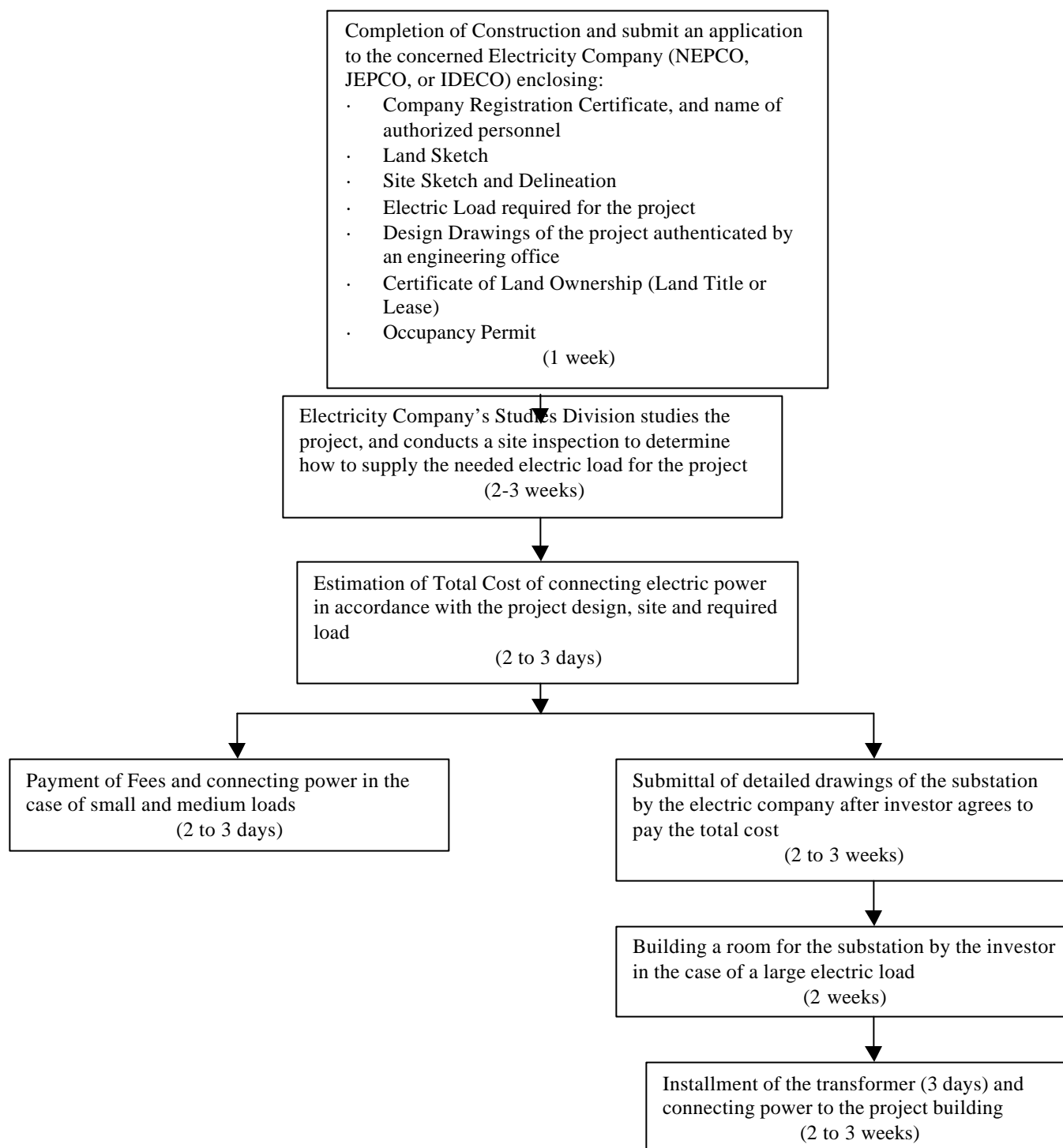
166. If no projects are present at the waiting list, then it takes 3 days to complete the substation installation. Substations and related equipment are provided by the electric company, but paid by the investor.

167. It takes 2 to 3 weeks for pulling the line for connection. If only cable is required, then the investor pays the cost of the cable, and the connection takes 2 to 3 days in that case. Before the switch is turned on, the electric company requires the submittal of an Occupancy Permit issued by the Municipality.

168. The rates for electricity are determined by official rates acknowledged by the Ministry of Energy and Mineral Resources. The cost of electric is flat for commercial use, but depends on the usage for residential and industrial purposes.

² The connection fee for a three-phase meter is JD50.000; the cost of 33kV overhead line/km is JD14,000.000; and the cost of cable/meter is JD45.000.

Chart 4.5: Procedures for Electricity Connection



2. Water and Wastewater

169. The water sector is managed by the Ministry of Water and Irrigation, which sets water policies and the implementing agency is mainly through the Water Authority (WA), responsible for the whole country except the Jordan Valley. The latter is serviced by the JVA. The WA is headquartered in Amman, and has 25 offices in Jordan.

170. With the exception of the Aqaba region, which is supplied continuously with high quality water from a series of aquifers, the whole country faces a severe general shortage of water supply. To restrict water allocation, WA requires that all industries obtain separate approvals from their line ministries. Investments within the city are the easiest to provide connections with, as there is already a well-established water and wastewater network.

171. To apply for water installation in Amman, an investor has to submit an application to the WA, with the following documents attached:

- Plan of location of investment (zoning map);
- Occupancy Permit (or Building Permit if the application is for temporary connection for construction);
- Company registration; and
- approval from project-related ministries.

172. The WA studies the area and the quantity of the water needed. Outside the cities, i.e. in the rural areas, the approval depends on the water availability. If there is no or small network at the proposed location, there would be a need for a technical study. The WA allows the investor to drill his own well based on the hydro-geological maps and provides assistance and technical supervision in accordance with the technical specifications which also include environmental issues.

173. There are wastewater networks serving cities or towns with population more than 8,000 people. Outside the serviced areas, the MMRAE and the WA require treatment of water before it is discharged to the valley. There are also special provisions for hospital laboratories and operating rooms, and any chemical related organizations. For industries falling within city limits, the investor is required to have his own small treatment facility.

174. Application process and site check takes 2 days, it may change depending on the need for water. For houses, the maximum time needed for connection is 2 weeks, and outside the cities it may be shorter as less work is required to actualize the connection.

175. Construction materials for water connection are provided free of charge by WA in serviced areas, but outside the serviced areas, the cost of materials is charged to the investor.

176. The water tariff as of March 1998 is as follows:

Investor Road Map

- Non-domestic: JD 1.000/ m³ + JD 0.500/m³ (wastewater charge)
- Domestic: progressive rate
- If the investor owns a well, there is an extraction fee of 250 fils per cubic meter. There is no fee for wastewater.

3. Telephone

177. The telephone services are provided by Jordan Telecommunication Company (JTC), which is currently going through privatization. JTC has three customer service centers in Amman, and another one in Sahab. Applications for a new phone line can be made at any JTC local office, but the processing of all applications is done at the JTC Headquarters.

178. Telephone supply in general falls far short of demand, though JTC gives first priority to businesses applying for new lines. To apply, the applicant must present to JTC:

- Pictured ID of the applicant (or copy of passport of a non-Jordanian);
- Lease agreement, or land/building registry document;
- Company registration certificate; and
- Copy of professional license, where applicable.

179. The fee of connection is JD125 for home use, and JD250 for business use. The fee for receiving phone service is JD28/year for home use, and JD60/year for business use. This fee is charged in 12 monthly installments and provides 335 minutes/month of free local calling to the customer. Any other calls will be charged based on the type of the calls made: local, national, and international. Fees are generally high by international standards.

4. Postal Services

180. The postal services are provided by the Ministry of Post and Communications (MPC). Postal services and products are available only at official post offices and outlets, totaling 979 in 1997. A post office is available in residential areas with populations such as villages with 300 people and above. Postal outlets in large towns are open from 7.30 a.m. till 7.00 p.m. However, they may close at 2.00 p.m. or 5.00 p.m. depending on the size of towns.

181. The application to obtain postal registry services is very simple; the investor has to go to the nearest post office and submit only the company name and address. The Postal Affairs is linked with Investment Promotion Corporation (IPC), and supplies information about services and rates.

5. Analysis

182. The major constraint in obtaining utilities is the lengthy waiting periods for connections. This is mainly due to the general lack of infrastructure, especially at the less developed areas. Most public utility companies have faced resource constraints and management inefficiency, which has hampered their ability to meet the increased demand for utilities.

183. To speed up connection, investors (especially those located outside the cities) have often been forced to share a significant part of the infrastructure costs required for connecting their establishments and the main utility lines. The infrastructure put in place for and paid by these investors, later, can be used freely by authorities to supply other users in the area. This setup has delayed investment in many cases as it creates an unwillingness on the investors' side to be the first comer, while everybody (sometimes including the authorities) would like to wait for somebody to invest first.

184. The electricity installation procedures, with one to three months delays common, are too slow and expensive for investors, especially for any large size investment projects whose installation and testing of machinery depends on the availability of electric power. Sometimes, construction of facilities with metal structural frames is done, the equipment and machinery have arrived, but connection cannot be finalized because the paper work required is not completed. In addition, investors are often required to pay 100 percent of the installation costs up-front, which imposes a significant working capital cost on firms when they can least afford it.

185. Because of the difficulties of connection and the ongoing severe shortage of power supply, many companies have been forced to build their own small generation sites as a back-up. Such an option is costly and in most cases not efficient economically. For small and medium enterprises, this option is simply not affordable. The lessons seen in many other countries, such as in Nigeria, Indonesia, and Thailand, suggest that diffused private substitutions for public service divert capital and raise costs -- and small companies pay the greatest penalty.

186. There is a countrywide water shortage, except perhaps the Aqaba Region. Water supply by the WA has been unreliable, and its price has been subsidized by the Government on the one hand, and subject to erratic changes by the authorities on the other. Many investors have used other options, such as buying water by tankers or drilling wells on their own, but those options may not be cost-effective.

187. Telecommunication services in Jordan have a history of long delays, due to the general shortage of supply. Although the application process is fairly easy, the waiting period to get new lines connected takes from 3 months to a year in some cases. Many investors noticed that JTC has made some improvements in answering customers' demands, but there is a long way to go before the huge gap between the demand and supply can be filled.

188. International experience has demonstrated the need to privatize existing state owned enterprises and promote green-field private projects in infrastructure to meet the

Investor Road Map

need of rapid industrial growth. Since 1984, eighty-six countries have privatized 547 infrastructure companies, and at least 574 private green-field infrastructure projects are under way in some eighty-two countries.³ Privatization has full-fledged in a number of Latin American countries, including Argentina, Chile, Mexico and Brazil. It has also spread fast in East Europe and Asia. In most places, it has significantly alleviated the infrastructural constraints previously faced by the public sector alone, especially with regard to power generation, telecommunication and transportation.

189. Many countries have encouraged foreign direct investment (FDI) involvement in infrastructure field to benefit from the international financial and technological strength. FDI has been made use of through numerous alternatives including outright privatization, private management contracts, build-operate-transfer (BOT) mechanisms. In some countries, infrastructure sector has become a major area for attracting FDI. Jordan is beginning to adopt such an approach

6. Recommendations

190. The difficulties in utility connections need to be addressed. In the immediate run, the following steps for improving the current procedures should be considered:

- ***Establish a special Utilities Facilitation Desk in the IPC that would focus on assisting investors in accessing all utilities required.*** This would require IPC to establish and maintain close working relationship with all the key utility authorities, including the Water Authority, the electric companies, and Jordan Telecommunications Company. A small example of such a relationship between IPC and the postal services already exists today, and can be duplicated to other utility areas. A focal point of facilitation could save investors time and frustration, and help speed up the overall utility connection process.
- ***Reduce or eliminate installation charges.*** Imposing heavy installation charges on companies discourages investment and consumption. At least, the power companies in Jordan should consider instituting standard options allowing the firms to defer some portion of the installation costs (with interest or higher tariff rates). Moreover, investors who purchase transformers and other equipment should be allowed to retain ownership, as the current practice represents an on-going policy of small-scale nationalization.

191. The gap between the demand and supply of water appears to grow more dramatic than the provision of electricity and telecommunication services, as the population grows at a very fast rate. Jordan must therefore set a careful pricing strategy to ensure that the cost to the consumer (for both commercial and residential use) reflects the true price and not a subsidized price.

³ Source: The World Bank

Investor Road Map

192. In the medium to long run, however, the problem of general utility shortage must be addressed. Based on international experience, the shortage problem can be best alleviated through a ***sped up process of privatization in infrastructure***. The government will need to resolve the infrastructure problems by privatizing many more public utility authorities and encouraging new private investment in all sectors of infrastructure. Managing private entry to infrastructure is a complex, politically charged process. Differ from many other private investments, private infrastructure projects would have the Government more intimately involved, as a regulator, buyer, and/or supplier. To succeed in privatization, the Jordanian Government, like other governments, will need to speed up the process of establishing the necessary legal and institutional frameworks, to allow orderly, transparent and competitive transactions.

C. Industrial Estates

193. As mentioned in the previous chapter concerning land, industrial estates currently provide industrial investment projects an easiest option for access to land and infrastructure. The fact that JIEC is delegated with most authorities of a municipality and is empowered to develop and provide utility services allows investors within the borders of industrial estates a single contact point for all approvals related to site development and utility connections. These include, apart from electricity and water, build permit, occupancy license, and professional license.

1. Building Permit

194. JIEC usually issues a building permit within one week after the submittal of the application. To apply, companies are required to:

- Fill in a standard application form;
- Attach a site plan; and
- Attach a copy of construction drawings (authenticated by a certified engineering office and accredited by JEA and the CDD). JIEC provides the land sketch necessary for preparing the design drawings free of charge.

195. For temporary connection of utilities during construction, JIEC provides a letter of temporary permit. During the construction, JIEC inspects the site. At the completion of the construction, inspections by both JIEC and CDD of the building is required.

2. Occupancy Permit

196. To obtain the occupancy permit, the investor fills in a standard form and attaches to it the approval letter from DCD. The occupancy permit is usually issued within 3 days.

3. Professional License

197. Upon completion of installations, a profession permit will be issued within the same day after payment of fees and submission of the following documents to JIEC:

- Completed application form for Professional License
- Industrial Data Sheet
- Industrial Registration Certificate
- Company Registration Certificate
- Membership Certificate from Chamber of Industry
- Building Occupancy Permit.

198. The renewal of professional license requires approval of Ministry of Industry and Trade, if there are any operational changes.

4. Analysis

199. The experience of JIEC offers several meaningful lessons. Through the establishment of industrial zones, the Government of Jordan seems to have succeeded, though in a limited geographic area, in dealing with several problems with one solution. Industrial zones have allowed concentrated use of limited resources on developing necessary industrial infrastructure. Investors have been attracted to the zones by the easier access to land, utility support, and general investment facilitation. In general, they found the procedures in the zones relatively simple, straightforward and time-saving.

200. The JIEC experience is consistent with international practice. In many countries with successful industrialization, industrial estates played an important role at various stages of development. In Korea and Singapore, for instance, establishing industrial estates helped the take-off and orderly growth of manufacturing industries. The zones have also prevented concentration of industrial activities in urban areas. They have encouraged industrial clustering, i.e., enabling industries of similar specific types to be situated within proximity of each other, thus allowing close backward and forward industrial linkages. For the same benefits, many more countries around the world are actively developing science parks and industrial zones today.

201. Although investors are generally satisfied with JIEC' current operation, they have complained about the limited areas available. The current two zones have little space left and the third one will not finish until spring 1999. Many prospective investors have already applied to the new zone, but have been told to wait for at least another year. To expand JIEC' operation, however, a major constraint faced today is the lack of public resources, in both financing, developing and managing modern zones.

202. In many other countries, the same constraint existed and hampered the adequate and efficient development of industrial zones. In recent years, more and more countries have looked into the option of private participation in zone development and management, and have encouraged foreign investment participation. Private developers use phased approaches and conduct extensive market studies prior to construction, in

contrast to a large number of centrally planned projects undertaken by the public sector. International developers bring in not only financial resources, but also state-of-art technology and management know-how. Private developers are also more effective investment promoters as they market their parks.

203. Private participation has resulted in higher quality, market-driven configurations and services in most cases. In Thailand, for example, industrial estates were initially an exclusive domain of the government authority, but are now an area open to the private sector as long as they comply with the public standards set for factory facilities and utilities. In Vietnam, the Philippines, and even China, governments are actively promoting foreign investment participation in developing special industrial zones. In all these places, investors are facing more choices and better services.

2. Recommendations

- **Promote more industrial estates.** This approach is appealing because it is likely to have an immediate impact on alleviating the infrastructure bottlenecks for manufacturing investors. Under this option, the developer will receive blanket construction permits for standard factory buildings, which they can then construct on an as needed basis without forcing investors to go through all the paperwork normally associated with building permits. Zone developers also solicit the installation of power, telephone, water and other services for groups of tenants in advance, or in some cases provide such services themselves. This allows interested investors to simply arrive and negotiate most required site development services and procedures directly with the developer, simplifying the process and facilitating economies of scale.
- **Establish pilot project(s) with private sector participation.** Private participation in zone development can relieve the financial and managerial constraints faced by the Government. It can also encourage competition and general efficiency. The Government of Jordan has long expressed interest in involving private sector in developing industrial zones. However, it will need to address the key issue of land to allow this to happen. A pilot project approach may be appropriate, as it can help the Government avoid the overall political complexity of the land issue, while providing an opportunity to gain experience and test results.

CHAPTER VI

OPERATIONAL REQUIREMENTS

A. Income Tax Registration and Payment

204. Jordan currently provides an investor-friendly tax environment. As the result of broad of tax reforms in recent years, corporate income taxes have been significantly lowered and simplified. Most sectors including metallurgy, manufacturing, hotels, construction and transportation, are subject to a low, flat rate of 15% for corporate income tax, plus 10% withholding tax on distributed income. The system also allows reasonable depreciation rates and loss carry forward. In addition, as a way of encouraging re-investment, the Tax Law exempts re-invested profits from income tax.

205. The process of tax registration appears relatively simply. It dovetails with that of company registration, and therefore involves no separate steps. Upon company registration and commencement of operations, the tax authority will send all necessary filing forms through the mail.

206. The procedures for tax payment, however, are cumbersome. Companies are taxed on their taxable income, which is arrived at through certain deductions of expenses and allowances. The expenses allowed are those expended wholly and exclusively for generating the gross income during the year of assessment. Jordanian tax law does not consider the following items as deductible expenses:

- All capital expenses;
- Cost of building or restoration which lead to increased value of capital;
- Amounts drawn from the capital and used as capital in any activity;
- Compulsory or optional reserves and provisions;
- Losses or expenses recoverable under an insurance policy or a compensation contract; and
- Amounts paid as income tax and social service tax.

207. All companies must first declare their earnings and file tax returns. Then, all companies must meet with an official auditor to settle final tax liability. If the two parties fail to reach a final liability agreement, the case is deferred to a second official auditor. If at this point an agreement still cannot be reached, the case is deferred to the Jordanian court system (which may require years to exhaust all appellate possibilities and reach a final decision).

208. In fact, the two parties seldom agree with each other during the auditing. The widely spread concept among tax officials is that companies are "guilty" of mis-filing until they can prove their innocence. Thus, they always question the filing, and tend to

Investor Road Map

over-estimate a company's tax liabilities. This, in turn, encourage companies to mis-file. Many companies admitted that, since the reported amounts are to be questioned by the tax officials anyway, the incentive for them is to under-report income and exaggerate expenses. Consequently, the tax assessment becomes a process of negotiation, with companies starting out with a low figure in full expectation that the assessment made by the auditor will be much higher and the court of appeals finally arriving at an amount somewhere in between.

209. Moreover, tax auditors are authorized to audit companies' tax liabilities going back five years. Thus in practice, a company is always subject to an audit on a return from any of the previous five years. Executives at some large firms noted that they are routinely audited each year for all of the preceding five years. Some companies may therefore be audited five separate times for the same fiscal year.

1. Analysis

210. The whole process, thus, becomes unnecessarily complicated and unpleasant. It undermines business practices -- it forces companies to spend significant amounts of time and resources on tax assessment; and it creates uncertain fiscal environment. It could cost the Government a lot, as the practice of evasions increases and tax collection becomes more and more difficult.

211. In most other countries, especially in North America and Europe, a general concept guiding tax administration is that "innocent until proven guilty." Under this concept, the majority of companies are trusted with self-assessment in consistency with the established accounting standards. To ensure compliance, a percentage of companies are randomly audited by the tax authorities every year. Governments, in the meantime, impose on those found with serious offences harsh penalties, including monetary fines and/or imprisonment, to deter offences.

2. Recommendations

212. To the benefits of both investors and the Government, efforts should be made to reverse the current atmosphere of mutual mistrust regarding tax payment, and to improve the process. In consultation with other relevant international organizations, such as the International Monetary Fund and the World Bank, the Government may consider the following steps:

- ***Modify Article 34 of the Income Tax Law to shift the burden of proof from the company to the assessor.*** This will likely result in more restrained assessments on the part of the auditors, who will need to be meticulous about providing proof of wrongdoing on the part of the tax filer.
- ***Establish and implementing accounting standards and require accounting firm audits (for businesses above certain size).*** Accounting firm audits can create a

Investor Road Map

level of legitimacy in tax assessment that is difficult to obtain through self-assessment. Government assessors would be much more apt to trust a third party whose reputation is on the line, and who is fully liable for any assessment errors. Generally established and enforced rules and principles of accounting should be instituted immediately, as they are the necessary foundation for third party assessment.

- ***Introduce a random auditing system.*** The percentage of returns that are audited should be reduced from 100% to around 10%. In a climate in which offenders are severely punished, random audits would provide enough incentive for tax compliance while at the same time significantly reducing government and private sector time and resources spent on the auditing process.
- ***Significantly increase fines for falsifying tax claims.*** If after careful review a company is found to have acted dishonestly in the reporting of tax liabilities, the government should be able to impose harsh penalties, including monetary fines and/or imprisonment for serious. This creates a climate of accountability on the part of the private sector, significantly decreasing the incentive to provide false statements. In turn, auditors would no longer be justified in assuming that all companies provide false statements.

B. Customs Procedures

213. Jordan's economy heavily depends on external trade, and importing and exporting becomes an extremely important part of conducting business in the country. Most companies need to bring in from outside equipment and machinery, parts and components, and raw materials for production purposes. Traditionally, Jordan's main exports are mineral and mineral-related products, including potash and phosphate rocks. In recent years, however, the country has increased the share of non-traditional exports, which include a variety of manufactured products.

214. Jordan has made great strides in trade reforms in recent years, especially in reducing tariffs on imports and consolidating duties and fees. Major policy and procedural reform efforts made in the recent past and planned for the near future are summarized in table B-1.

215. In the meantime, Jordan has been actively preparing itself for WTO accession. A new Customs Law consistent with many WTO norms is currently under the Parliament consideration. Jordan has also negotiated and signed several multilateral and bilateral trade agreements. In addition, the Jordan Export Development and Commercial Centers Corporation (JEDCO) works to increase export awareness, help companies penetrate new markets, upgrade their technical know-how and product quality, including developing international quality standards such as ISO 9000, and deal with a wide variety of exporting issues.

Table B-1

Policy Area	Action Taken Since 1996	Current or Recent Policy Actions	Policy Actions 1998-1999
Import Tariffs (Objective: Reduce anti-export bias, stimulate efficiency and competition)			
Tariff Structure	Maximum tariff reduced to 40% excluding tariffs on alcohol and tobacco. Number of tariff bands lowered to six: 0, 5, 10, 20, 30, and 40%		Reduce maximum tariff to 30%. Lower the number of tariff bands to four: 0, 10, 20, and 30%.
Capital goods, raw materials and intermediate goods	Zero tariffs on 492 capital goods, tariff reduced to 10% on 218 capital goods, parts for such capital goods not to exceed 30%	Reduced tariffs on 46 raw materials and intermediate goods to 5-10%	Reduced tariffs for all capital goods, parts thereof, intermediate goods, and raw materials to maximum 10%
Customs Administration (Objective: Reduce transaction costs of imports and modernization)			
Valuation	Utilization of a reference price database for valuation of goods by Customs	Implementation of procedures for valuation of goods based on the self-declaring principle, in accordance with WTO Customs Valuation Agreement	Complete implementation of procedures for valuation of goods based on the self-declaration principle, in accordance with WTO Customs Valuation Agreement
Duty drawback and temporary entry	Computerization of duty drawback and temporary entry systems	N/A	Extend the duty drawback and temporary entry regimes to indirect exporters
"Green Channel"	"Green Channel" customs procedures granted to a few exporters	Extend "Green Channel" facilities to more exporters including all ISO 9000 certified companies, those exporting more than 50% of production and exporters penetrating difficult markets (OECD	Further extend facilities to exporters

Investor Road Map

		countries)	
Pre-shipment valuation	Announcement made that importers will be able to use the services of pre-shipment certification on a voluntary basis	Select provider and implement pre-shipment certification services	N/A
Aqaba Freeport	Initial findings and recommendations completed	Initiate detailed feasibility study and implementation plan for turning the whole of the Aqaba area into a free port with focus on fiscal impact on the budget and identify niches for Aqaba in terms of exports and attracting foreign direct investment	Proceed with implementation
Customs Law	New WTO-consistent Customs Law is currently before Parliament	Seek Parliamentary approval of appropriate WTO-consistent Customs Law	Implement Law
Safeguard Law	New WTO-consistent Safeguard Law is currently before Parliament	Seek Parliamentary approval of appropriate WTO-consistent Safeguard Law	Implement Law

216. Despite general achievements made in trade policy and procedural reforms, Customs service remains one of the most serious complaints of investors. Companies rapidly increasing international businesses would like to receive more friendly and speedy process at all ports to clear goods.

1. Clearing Procedures at Amman Airport and Aqaba Port

217. Amman Airport has a relatively large customs team (about 70 customs employees), to be joined by representatives from other government entities involved in port clearance (e.g., the Ministries of Health and Agriculture). This team is available 24 hours per day to inspect and clear goods. The airport in Amman is the first customs frontier in the country to use the unified customs declaration, and is on the leading edge of ASYCUDA computerization efforts, which are expected to be fully operational by the end of 1998.

218. Procedures for customs clearance at the Amman Airport are as the follows:

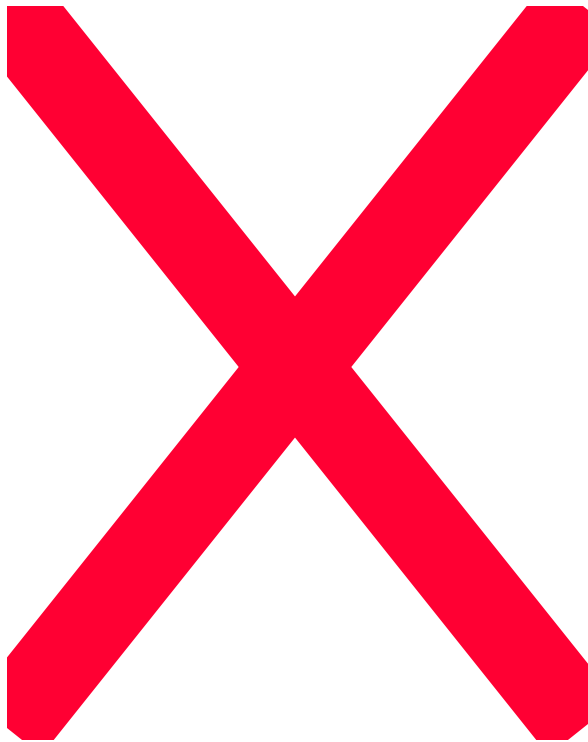
- The company or its shipping agency receives the delivery order and bill of lading via Royal Jordanian. The bill of lading should be stamped by a Jordanian Embassy/Consulate, if available.
- For certain items, the Packing List must be checked by the relevant Ministry (such as Health, Agriculture, Media, and Interior).
- The company or its shipping agency must register its customs declaration at the Manifest Office. Currently the declaration must be brought manually to the Manifest Office, but this process is being computerized.
- There are two paths available for imported goods to go through: the *green* and the *regular*. The *green* line provides speed service, since there are no inspections of merchandise required -- only the seal of the container is checked. But the *green* line is only open to limited pre-qualified companies whose annual export value must be over \$____. Currently, five registered clearance companies perform services on the *green* line for about 40 businesses (mostly public shareholding or government owned companies).
- For most companies whose goods go through the *regular* line, the Manifest Office submits their customs declarations to a Clearance Unit. This submittal is currently done manually, but being computerized.
- Each Clearance Unit has 2 inspectors, 1 evaluator, 1 auditor, and the unit administrator. The clearance unit inspects the goods, then classifies and assesses customs duties. The time required for this step largely depends on the capacity of Royal Jordanian to move the goods to the inspection area. Because of a lack of transport equipment and storage space, the movement of goods for inspection is usually slow and delays the speed for inspection.
- After inspection, the importing company pays duties at the accounting office.
- There is a mandatory final check and approval by a managerial level customs personnel. All paperwork is double-checked and three copies of the 'certificate for the removal of goods are issued, for Royal Jordanian, customs, and security officers at the gate.
- There is a storage fee to be charged beginning one week after arrival.

219. Goods arriving at the Port of Aqaba follow a clearing process similar to that at the Amman Airport. Specific steps are shown in Figures 6.1.

Figure 6.2 Customs Procedures in the Port of Aqaba

220. At both ports, the Customs authorities require the following documents for import clearance.

- Goods delivery order (from shipping agent)



Investor Road Map

- Bill of lading
- Copy of invoice (preferably from factory)
- Certificate of origin
- Health certificate (for certain goods)
- Inspection certificate (differs depending on good)

221. All original invoices should be certified by the Chamber of Commerce of the city where the goods originated, or by any other institution acceptable to the Customs Department (e.g., a Jordanian diplomatic mission). The purchase price should be stated on the invoices and all other documents. All invoices should describe the imported goods and be translated in Arabic. Often, the Customs may ask for additional technical specifications of the imported goods, or require certain labeling and marking information.

222. All foreign firms importing goods to Jordan must appoint locally registered Jordanian agents/distributors. For Jordan-bound shipments forwarded through Syria, Iraq, and Saudi Arabia, the local importer, or his clearing agent, should present a Customs Declaration issued by the country of transit, as specifically required in bilateral agreements."

223. All imports are physically inspected, usually by a clearance unit with 2 inspectors, 1 evaluator, 1 auditor, and 1 unit administrator. The unit then classifies and assesses customs duties. A sales tax is also levied on all imports, including those under "duty free" entitlement, based on the value of imports.

224. For goods that are related to food, drugs and agricultural products, laboratory tests are required before they can be cleared for entry. Such tests are often done by relevant ministries.

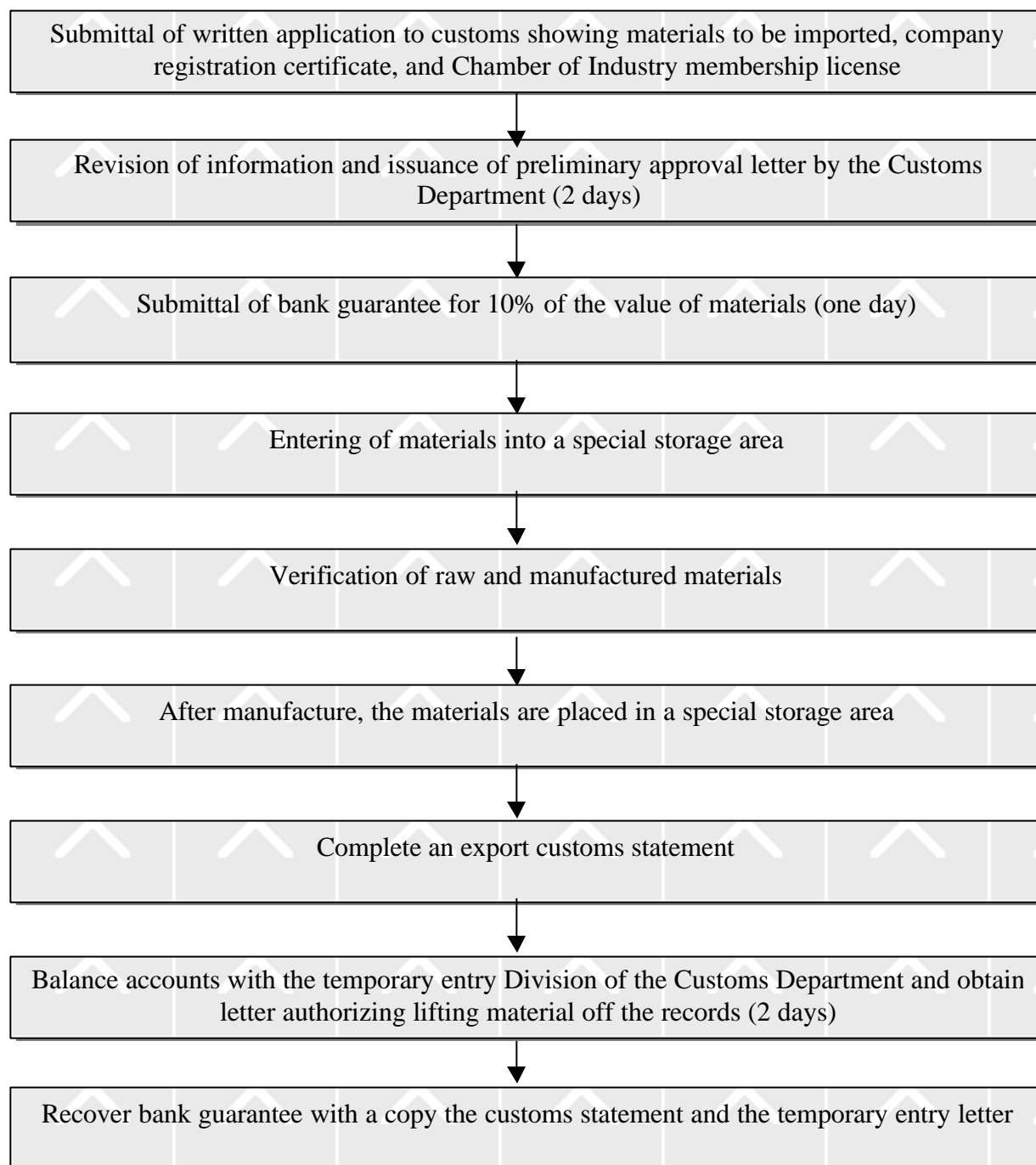
2. Import Licensing

225. According to the Import and Export Regulation No. 74 of 1993, an import license is not required except for about 22 commodities, including telecommunication equipment, foodstuffs, medical equipment, and a wide range of engineering equipment. These products are required to have a pre-permit from the relevant agency and an import license form the MOIT. Currently, the import license continues to be a requirement, but is no longer a pre-import requirement. The Government is in the process of eliminating the import license for all but a few strategic food commodities.

226. Importers are required to acquire an "importer's card" from the MOIT, although the practice seems to be aberrant as many officials and companies interviewed were not even aware of this requirement. Obtaining the importer's card involves Municipal Licensing and verification of company registration documentation.

3. Duty Draw-Back and Temporary Entry Regime

227. To encourage non-traditional exports, the Government provide duty draw-back and Temporary Entry facilities to those manufacturers who need imported raw materials and intermediate goods. Under the Draw-back scheme, the investor pay duties and sales taxes upon importation of materials, but get re-funds from the Customs when processed goods are exported. This scheme is not widely used, as it can be very time consuming and capital intensive for investors. Under the option of Temporary Entry, investors designated for export purposes do not pay customs duties on raw materials intended for manufacture and re-export for a six month period (subject to extension). To use this scheme, bank guarantees and preliminary customs approvals are usually necessary. Procedures are described in Chart 6.2.

Chart 6.2 Procedures for Temporary Entry of Raw Materials

4. Analysis

228. The trade reforms taken place in recent years have had a positive impact on investment environment. Companies have found it much easier than a few years ago in getting goods in and out of the country. However, investors have complained about the lack of efficiency in customs procedures, especially regarding the overlapping areas of authority and the multi-layers of checking reflecting a low level trust of the business community. This, coupled with inadequate equipment and insufficient training of officials, has made the process of clearing goods through customs time-consuming and cumbersome.

229. Inconsistent applications of customs rules have been a particular concern to many investors. Companies have complained that there has been too much emphasis on strict classification of goods and documentation, which sometimes could be hardly kept up with in a rapidly changing and diversifying world of technology and commercial activities. Frequently, conflicting and unclear regulations allow customs officials to make arbitrary decisions about tariff rates and applications. The problem is exasperated by a general lack of education or training among customs officials. Currently, a large proportion of customs employees don't have the equivalent of a high school diploma. Businesses have voiced concerns that junior level officials waste a lot of time asking their superiors questions for which they should know the answer.

230. The technical testing of certain imported goods has been another area for concern. Not only are goods referred to their respective ministries for testing (such as food products to the ministry of agriculture), but often the tests themselves lack credibility. A pharmaceutical company, for instance, claims that composition tests for the same imported chemical will often yield different results at the customs laboratories, resulting in different duties being charged.

231. There is a tendency for customs officials to levy unnecessary fines. According to investors interviewed, customs officials are prone to search for minute irregularities, often on matters beyond the control of importers. Part of this is due to the heavy pressure from the Government's need for revenue. Customs officials are in general under the pressure to meet the "fine" targets.

232. Part of the problem of excessive fines is due to the "bounty system" by which officials' remuneration is tied to the amount of fines they levy. Forty percent of collected fines are kept in the Customs Department, twenty five percent of which are placed in a common pool used to award officials according to the fines they collect. This system defines "good performance" for customs officials as catching smugglers only, not as providing a smooth and efficient service to honest businesses.

233. For those using the Temporary Entry System, the present bank guarantees present a financial burden, as they are expensive and tie up large amounts of capital.. Currently, such guarantees serve as protection only in specific instances, for example, when the

importer fails to present a specific document. An importer, thus is required to have a guarantee for each individual import instance. Some companies have been found to take out several hundred separate guarantees in a year.

5. Recommendations

234. To allow investors to fully benefit from the ongoing trade reforms, the Government should speed up the customs administrative and procedural reforms. In particular, the following steps are worth considering:

- ***Install modern infrastructure and facilities for appropriate security and customs operations.*** This would consist of a "smart cart" identification and merchandise control system, EDI links for Customs controls, and civil works for the development of centralized clearance areas for the examination of inbound and outbound cargo.
- ***In a long run, the country would need to continue to decrease its dependence on import duties as a source of government revenue.*** In doing so, Customs Department would feel less pressured to extract fines, instead of directing their focus on streamlining and facilitating procedures. Officials should not be given numerical targets on fines.
- ***Replace the "bounty system" by an assemblage of incentives and bonuses that are not tied to the amount of fines levied.*** The new Customs Law proposed to lower the "bounty" amount that is distributed among customs officials from 40% to 30% of fines levied, and a cap of JD 200 every two months will be established. Although a step in the right direction, it may not be enough, since it still reinforces a "fine" mindset. Customs officials admitted that even though there is no longer an inexhaustible incentive to levy fines, most officials do not meet their caps, and are therefore still prone to over-enthusiasm.
- ***Reform the mindset of Customs Officials at all levels.*** In conjunction with changing the incentive system, Customs Department should strive for an institutional culture that is one of service. Officers at all levels should take it on their responsibility to facilitate the flow of goods, not prevent it. If some documentation is incorrect, goods should still move; documents can be corrected later. With the advent of modern "just in time" production methods and short delivery times, such an attitude is more important now than it was 10 years ago. The goal of customs should be revised to one of trying to have the goods reach their destination within 24 hours of landing—not to levy as many fines as possible.
- ***Improve the professional skills of customs staff.*** Efforts should be made to hire staff with a certain minimum educational level. Recruited staff should be

continuously educated on the laws and regulations and institutional procedures, so that they will enforce the same rules in the same way. Staff should also be periodically updated on new technical and commercial development around the world so that they will in a better position to judge new situations when needed.

- ***Implement a pre-tabulated reference list system and streamline the number and types of exemptions.*** The objective is to create a system in which there would be fewer, and more clearly defined, exemptions, perhaps with lower customs fees. This would increase transparency and consistency, and would provide a more level playing field for all economic activities. The reduction in tariff bands has already greatly simplified the tariff assessing process.
- ***Modernize the bank guarantee system.*** A blanket bank guarantee that serves to guarantee all customs duties and formalities should be considered. Such a system would be cheaper because it would spread the risk over the entire spectrum of imports, instead of a few that are irregular. It would also eliminate the inefficient and, sometimes unfair, practice of taking a portion of the importer's goods in payment of customs duties and fees.
- ***Amend Article 40(a) of Customs Law (16) of 1983 to eliminate the need for a Consular certification of value.*** Certifications are an unnecessary burden for traders, they are just another obstacle in the path of commerce. Despite invoice certifications, Customs continually uplifts the declared value of goods, evidence that certification serves no useful purpose.

C. Site Inspections

235. Production sites are subject to regular and random inspections by various authorities and agencies to ensure environmental and labor safety, and product standards and quality. The first applies to almost all industries, and the second is particularly important to those industries whose products would have great impact on consumer's health and safety, such as all food products and pharmaceuticals.

236. Inspections for environmental and labor safety are conducted mainly by Civil Defense Department, municipality authorities, environmental authorities, and relevant ministries depending on the involvement of the industry.

237. Inspections for product standards and quality are carried out by the Institution for Standards and Metrology (ISM), and other relevant ministries depending on the industry. A meat processing industry, for example, would expect inspectors from the Food Department of Ministry of Health (MOH), ISM, and Ministry of Agriculture (MOA). MOH may need to check the safety aspects of the products; ISM may need to check the

Investor Road Map

ingredients, nutrient facts and labeling of the products; and MOA may want to look at the life animal slaughtering process.

238. MOH and ISM inspectors often have to collect product samples, and test them at their respective labs. Food testing by ISM takes about 10-15 days and there is a charge of JD 20. Testing reports are provided to the company in writing. If products fail to pass the mandatory standards, the company is usually given one month to make the necessary improvements. If products repeatedly fail to pass the tests, enforcement may include close-down of the production.

D. Analysis

239. Monitoring environment and labor safety and ensuring products standards and quality serve a legitimate purpose of the Government. They are also important to industries. The way it is conducted today, however, needs to be improved.

240. First of all, like in many other procedure areas, the process appears too diffused and rather disorganized. There are too many authorities and agencies are currently involved, often overlapping each other's efforts. For environment and labor safety concern, for example, the same factory floor is inspected repeatedly by specialized agencies and line ministries, by local municipalities and national authorities. For food product quality control, likewise, the same product is tested and approved by different authorities that are not closely coordinated with each other. To the investor, the major problem caused is the large amount of time he has to spend to receive these inspections, which distracts him from normal management duties. In food industries, indeed, this has caused a major complaint as it is not uncommon to receive 12-15 inspections on a monthly basis.

241. The problem is coupled with the general lack of rules and regulations. Many of the inspecting agencies cannot provide clear information on standards or procedural guidance to investors and their officers alike. In many occasions, the situation is aggravated by the lack of competence and, often, the right attitude of low-level officers. Arbitrary decisions, inconsistency, and confusion, thus, occur.

242. Furthermore, the system does not clearly distinguish companies with good track records from those with poor ones. Everyone is subject to frequent inspections and testing. There are companies that have achieved ISO standards by international inspectors but have not experienced reduction in repeated local inspections. This is not only discouraging to the companies that maintain good records, but also prevent the relevant authorities from focusing on the areas where real problems exist and need attention.

2. Recommendations

243. To improve the system, the Government may consider the following steps:

- ***Better organize and strengthen the inspection process by centralizing the execution in specialized institutions.*** Environment and labor safety control, for instance, should be the responsibility of the environmental agency, equipped with appropriate mandate and expertise. With regard to food quality control, MOH and ISM could join each other in setting up a special unit for food quality control with supplementary interests. This will enable investors to better answer the government requirements and allow the government to better monitor the necessary process.
- ***Establish clear rules and regulations and make information available.*** To ensure compliance with public interests, manufacturers need clearer guidance in setting up product standards and operational codes. Once such guidance is established, it becomes the main responsibility of the companies to fulfill whatever is mandatory required. The same guidance should then be followed by government officials who are responsible for monitoring.
- ***Award the good citizens and punish the bad ones.*** Companies that have performed well in complying with environment and quality requirements should be awarded by more public trust and respect, while companies that have repeatedly breached the rules and regulations should receive the appropriate penalty. This will make the system more efficient and effective in protecting environment and consumers' safety.

CHAPTER VII

CONCLUSION

7. In light of the significant policy reforms that have taken place, associated procedural and institutional reforms are more needed today than ever. Various efforts have been made by individual ministries, agencies and departments, but the efforts have not been concerted into coherent action plans with shared vision and goals. Moreover, procedural and institutional reforms have, thus far, been more a subject of importance to high-level decision-makers than a recognized interest to a wide range of mid-level officials directly in charge of daily execution. In some cases, the lack of understanding and engagement of mid-level officials has caused certain amount of resistance to the changes required.

8. It is an expressed interest of the Government of Jordan to implement the required procedural reforms in the years to come. To succeed in this, continued commitment and support of the leadership at the highest level will be essential. Some of the procedural and institutional issues raised in this report will require decisions for radical reform and restructuring – decisions that have to be made at levels that are beyond the executing agencies. Meanwhile, efforts need to be increased to spread the awareness of the problems to all agencies/officials at various implementation levels, and to build up the necessary consensus over the urgent need for removing the problems. Only with this consensus obtained, will simplifying the approval process and servicing investors become internalized process of each participating agency, which will then be most creative and effective in searching and experimenting solutions.

9. Countries that have succeeded in implementing procedural and institutional reforms have more or less followed a three-step approach to re-enforce leadership commitments, multi-agency coordination, and active participation by officials at all levels. Jordan can benefit itself by adopting a similar approach in formulating its implementation program:

10. ***Step 1: Analyze the system and raise the necessary awareness of the problem.***

As the first step, the overall procedures for investment and the current structure and functions of the government agencies are thoroughly examined. The purpose of this first step is to identify primary bottlenecks both to investment procedures and institutions. The results are presented to a wide audience during a seminar (or a series of seminars) planned for all parties involved. Such seminars help raise common awareness of the problems and build necessary consensus on the required reforms.

11. The current report is only a part of this first step. The findings and recommendations of this report are only meant to provoke active thinking among the line ministries, key authorities and all other agencies that are directly involved in the investment process. It is these ministries, authorities and agencies who are intimately familiar with the procedures discussed in the report, and it is them who can recommend best solutions to the issues. The Ministry of Industry and the Investment Promotion

Corporation have already suggested that a series of workshops be organized in the summer of 1998 for the specific purpose of consensus building regarding the procedural reforms. This event would be most effective if it has the support of the highest leadership of the Government and the participation of all key parties involved in the investment process.

12. ***Step 2: Propose Changes to the System.*** Once a consensus is achieved, action plans need to be formulated. This may mean efforts at three levels: the continued commitment of the Government leadership; the necessary consultation and coordination among ministries/authorities; and the effort within each participating ministry/authority to re-design and implement solutions for improving their respective parts of the procedures.

13. The first effort will require the support of the highest leadership. The second requires strong cooperation at the ministerial level, with perhaps the supervision of the established inter-ministerial Investment Promotion Council. The Ministry of Administrative Development is also in a desirable position to facilitate the necessary procedural and institutional reforms. The third effort will require the establishment of specific working teams within each participating ministry or agency, to develop proposals for changing the system. Outside consultants experienced in administrative reforms can be used at this stage to provide useful references of international best practices and help set new competitive standards for new systems. The working teams take those into account in revising or re-engineering relevant procedures; modify internal structures and guidelines, forms and regulations; and proposing changes in laws as found necessary.

14. ***Step 3: Implement Proposals.*** Once proposals are received from each working team, a comprehensive implementation effort needs to be undertaken. The actions are normally sequenced based on the priority needs and surrounding conditions. For instance, many governments prefer to undertake as soon as possible those reforms that are relatively easy-to-implement and high-impact, while more difficult or lower impact reforms are undertaken subsequently. Implementation can require new equipment, training, and often various regulatory and legal changes.

15. Jordan has high potential for boosting investment levels in the short to medium term. It possesses some valuable natural resources hardly tapped today, relative trained and disciplined labor force, and a convenient location for supplying other markets in the region. The Government has enacted a large number of reforms and policy measures that improve the policy context for investment. It is now getting at the difficult but critical work of bringing second-tier regulations and procedures in line with its overall push to attract investment and stimulate greater economic growth.

16. Procedural and institutional reforms, although difficult by themselves, can be affected far more easily than altering the larger limitations and constraints imposed by natural resource endowment, geographical position, and other physical factors. Policies and procedures are what governments have the most control over. When overriding public interest rests on modifying these policies, leaders will find a way to accomplish them and bring great impact on economic benefits for the country.